

**Tenth sitting**

Thursday, 10 June 2004, 10.15 a.m.

*President: Mr. Ray Guevara, Mr. Maatough***GLOBAL REPORT UNDER THE FOLLOW-UP TO THE ILO
DECLARATION ON FUNDAMENTAL PRINCIPLES AND
RIGHTS AT WORK: INTERACTIVE SITTING***Original Spanish: The PRESIDENT*

It is my great pleasure to open this sitting of the International Labour Conference which is dedicated to the discussion of the Global Report submitted under the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work. This Report is the first of the second four-year cycle of Global Reports submitted to the Conference. As you know, it is entitled *Organizing for social justice*, and it deals with freedom of association and the right to organize, and the effective recognition of the right to collective bargaining.

The Report gives an assessment of trends in this respect as observed over the last four years; in other words, since the first Global Report on these fundamental rights, entitled *Your voice at work*, was published in 2000.

The amount of information we have available to us today is quite considerable. You can find it in Report I(B) and also in *Provisional Record* No. 7, which deals with the various types of follow-up activity undertaken by the ILO in respect of this Declaration.

We would like today's discussion to be lively and interactive. It is for that reason that we have moved into this room because it is a more appropriate setting for a lively and dynamic exchange of ideas and information. Similarly, it is for that reason that the participants will be sitting in groups – the Government group, the Employers' group and the Workers' group – as if this were a committee meeting in plenary.

The discussion will be organized in the following way. To begin with, the Secretary-General will introduce the Global Report. I shall then give the floor to the spokespersons of the Employers' and Workers' groups, who will be followed by the representatives of the regional groups. After that, the floor will be available to those speakers who wish to put forward their views.

The SECRETARY-GENERAL

Organizing for social justice is the second Global Report focusing on freedom of association and the effective recognition of the right to collective bargaining under the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work. It is already having a positive reception in plenary speeches. Here, we need to deepen its analysis.

Four years ago, our first Global Report, *Your voice at work*, signalled our determination to achieve universal respect for these fundamental human rights at work and identify the priorities for an ILO programme of promotional activities.

Let me recall that the Declaration itself placed on the Office the responsibility for preparing a dynamic global picture relating to each category of fundamental principles and rights in a four-year cycle. So, this is our first second Global Report.

I want to make six points about where the Report says we are and where we need to go to make the fundamental right of freedom of association and the effective recognition of the right to collective bargaining real in the lives of people and the institutions of society.

First, there is a wider acceptance of the importance of these fundamental rights.

In fact, ratifications have increased and if we continue at the present pace, we will reach the goal of universal ratification of Conventions Nos. 87 and 98 by the year 2015. I believe that we should not wait that long, but it would be fitting indeed if in the target year for the Millennium Development Goals of poverty reduction, we could say that all countries in the world had bound themselves to respect fundamental principles and rights at work. And this is particularly true for very large and important countries – developed and developing – who have not yet done so. In these past four years, we have implemented some fact-finding promotional programmes with interested countries that stem directly from our review of the Global Report at the 2000 session of the International Labour Conference.

Second, our work is changing.

Our supervisory system is being used by more and more organizations struggling to overcome obstacles of varying types and severity that inhibit the exercise of their rights. I see this as an indicator of a healthy acceptance of the ILO's process for identifying and resolving problems. More often than not, the process leads to a constructive dialogue about how to change a law or improve the administrative system or deal with the particular problem. And its effectiveness lies in the perception by everybody that it operates frankly but also fairly.

Our new joint challenge is to create a legal, administrative, social and political environment where joining and taking an active role in the union or employers' organization is regarded as normal. And I think that this is a very important point: it is a normal activity. To simply decide that you have to put obstacles whatever they are for somebody, em-

ployer or worker, who wants to organize is going against something that should be seen as normal. We must defend this basic philosophy in all facets of life and in all circumstances. It is an act of civic choice. Who has the right to restrict that choice if we are advocating democracies? So, this is a very fundamental element. It is normal; it is an individual choice and that choice should not be restricted.

I think that, if we look at it that way, this will have a far-reaching impact. After all, the most effective labour laws are deeply embedded in society and are obeyed, not just because courts will penalize abuses, but because they are assimilated into the reflexes of governments, employers and workers and their representation structures.

The underlying notion of freedom of association and collective bargaining is that negotiation among most participants of equal weight, rather than litigation, is the quickest, most cost-effective and just way of solving problems and creating opportunities for progress.

Third, despite the advances, a number of groups of workers face enormous challenges in organizing in nearly all countries.

Most of these workers are low paid, have little or no security of employment or income, sometimes work in hazardous conditions and face discriminatory practices of various types. Large numbers of these workers are women and work in agriculture.

The approach we adopted at the 2002 session of the International Labour Conference provides a strong platform for action for informal economy workers and small businesses. Established unions and business associations are best placed to offer them support and help in getting organized.

Many of you are already doing that and I commend you for it. Those groups who have most difficulty asserting their rights should be a focus of our next phase of follow-up activities,

Fourth, technical cooperation is key.

The Declaration has given us an important framework that we can use to deliver technical cooperation and support to constituents. The action plan that followed the first Global Report on freedom of association and effective recognition of the right to collective bargaining listed some 50 countries that had asked for technical assistance. In the four years since then, the Office has worked with many of them on the policy priorities that they have chosen.

The substantial flow of technical assistance finance has made it possible to launch a number of sizeable projects, operating in countries in every region. I wish to thank all those governments that have contributed, and urge them and others to continue to help us develop our promotional work. The support of some very important countries has been key in being able to put many of these projects together.

Fifth, capacity building is vital.

The laws in many countries make exceptions that undermine the right of freedom of association and collective bargaining for all. We see it in the informal economy, in export processing zones and elsewhere.

Tackling these loopholes is a painstaking business and we must move faster. I think we can do so because in many cases the blockage is not an absence of political will, but simply the capacity of overstretched government services to draw up the legislative reforms and establish the necessary imple-

mentation structures. But what needs to be tackled head-on, and once and for all, is the nefarious idea that a worker in an export processing zone has fewer rights than other workers in the same country. I truly believe that it is an incredible concept that a worker in an export processing zone has fewer rights than another worker in the same country.

This has been a preposterous policy conditionality imposed on developing countries. Fortunately, not all have followed it.

Employers' and workers' organizations need to strengthen their capacity to organize and reach out, particularly in the informal sector. It is also key that they develop the expertise needed to negotiate effectively with each other and with national authorities.

Sixth, and finally, globalization poses new challenges. The Report shows that collective bargaining remains widespread and is constantly adapting to the changing contours of the global market.

What is noteworthy is that countries with relatively strong institutions for social protection and bargaining are better able to manage the volatility of an increasingly interdependent world economy, invest more in skill development and, in general, have less income inequality.

The lesson seems to be: organize well, train your negotiators, decide on the bargaining arrangements that best suit you, be ready to adapt and rebalance them if circumstances change and, most of all, keep talking.

The aim is to raise productivity and competitiveness, together with income and protection, in ways that are accepted as fair and effective. The rights enable this, but they do not guarantee it. That is down to the skill, capacities and experience of the negotiators. But when power imbalances are too big, the law must guarantee equity in the relationship.

We are seeing increasing requests for advice on how to shape bargaining structures and techniques, especially dispute settlement mechanisms, appropriate to the increasingly strong competitive pressures of our times.

This is what, in the Report, we term a rights-based approach to dynamic labour markets. The only way to meet this demand will be to develop better ways to share the experience of our constituents from all over the world so that each country can draw on our collective knowledge as they adapt their own systems.

To conclude, the goal of shaping a fair globalization depends, in a large measure, on strong employers' and workers' organizations founded on respect for freedom of association, organizing for social justice.

Over the past four years, it has become increasingly apparent that, to promote freedom of association as a human right at work, we need to understand its intimate connection with the enlargement of democracy, the efficiency of market-oriented development and social justice.

The Declaration describes the fundamental Conventions as providing enabling rights. When workers and employers are free to join and form organizations of their own choices, they are also free to fight forced labour, to combat child labour and to stand firm against discrimination. The right to organize tackles poverty and injustice at its very roots.

Organizing for social justice takes an important step forward in integrating our thinking on rights with our work on other strategic priorities.

The Report calls on us to work closely to overcome existing obstacles to ratifying and applying the relevant Conventions.

It calls on us to support organization and bargaining for vulnerable groups of workers.

It calls for stronger research and data to build a better understanding of how these principles can help build labour markets that promote rights, economic development, poverty reduction and investment.

It is also important to deepen the knowledge base, advisory services, technical cooperation, awareness raising and our advocacy capacities.

Your interventions today will guide the Office as it puts together an action plan for the Governing Body to consider in November.

Let me conclude by saying that, as Director-General, I am always vigilant on individual cases of trade unionists, particularly trade union leaders, who are put in jail or otherwise persecuted for trying to organize workers and carry out their legitimate trade union activities.

I have also intervened in many cases involving employers.

To all of you I say: keep me informed, I am there for you. Sometimes an opportune call on my part, a public statement or a discreet intervention, the activation of our local offices or other avenues can help afford protection at the right time.

Original Spanish: The PRESIDENT

Before we start the discussion, I would like to remind you of something. You should have been given a piece of paper when you came into the room, on which are listed some points for discussion; the purpose of this is to ensure that this discussion is useful for the Conference and the Office. We must not lose sight of the fact that the discussion of the Global Report at the Conference is a way of providing information and exchanging ideas that will guide the plan of action on the principle of freedom of association and the effective recognition of the right to collective bargaining for the next four years. This is due to be submitted to the meeting of the Governing Body in November.

In Chapter 5 of the Report it has been suggested that knowledge and advocacy of the principle and the right be strengthened and that the services provided to the constituents in this regard be improved.

We think that the Conference might feel it appropriate to consider some of the issues that have been listed on the piece of paper that I just mentioned. For those who do not have it, I will read it out quickly.

(1) Do you agree with the overall conclusion that although there are serious problems, there are some clear improvements in the application of this principle and right? As regards freedom of association? As regards the effective recognition of the right to collective bargaining?

(2) What are the prospects for promoting collective bargaining at different levels, and expanding the bargaining agenda, so as to cover subjects such as equality, competitiveness, productivity, innovation, work organization, training and new forms of employment?

(3) Do you agree with the idea of focusing further work on the sectors and groups identified

(those in agriculture, in the public sector, in export-processing zones, migrant and domestic workers, and in the informal economy)? Which would be your priority areas?

(4) What kind of research and data collection should be given priority, that would be useful for governments, employers' and workers' organizations in giving better effect to this principle and right?

(5) With particular reference to Chapter 4 on technical cooperation, how do you think that these activities should best be followed up?

(6) What should be the key items for a Plan of Action for the next four years, to be submitted to the Governing Body in November 2004?

With that, I think we are ready to open the discussion.

Sir Roy TROTMAN (*Workers' delegate, Barbados, speaking on behalf of the Workers' group*)

Today we commence round two of our Global Report under the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work, and we would wish, at the very commencement of the exercise, to thank the Director-General and his staff for the extensive work that they have done in preparing these Reports for us over the last five reporting sessions.

This is by no means an easy task. We are very conscious of the fact that there are still some problems associated with how the Reports are put together and how we treat them, and we firmly believe that we should look for ways to enhance the method by which we can get individual countries, individual groups of employers and individual groups of workers to submit reports, and to make for a more stimulating exercise that properly addresses the issues.

As things stand, I believe that the Governing Body may need to be asked as a result of this discussion to look more fully, in November or some subsequent time, at ways and means by which we can make the work that is being done tighter, stronger and more effective.

That does not mean, however, that the work done by the staff and contributors is not very effective, and we should thank all those who have contributed.

I think we would wish to give special thanks to the Director-General for the very clear comments he made this morning. We would also wish to refer to some of them, and I am sure that my colleagues will do so too. But let me first refer to the second point which he made, namely the point that freedom of association, organizing, should be seen as a normal exercise that does not require the approval of anyone. We think that this is basic and fundamental. As we said, we shall come back to this point in a minute or two.

Another very important matter – featured in the fifth point he mentioned – is that capacity building is vital and that we have to tackle the hindrances which, from time to time, interfere with efforts to promote freedom of association, especially those brought on by what we may term ideological positions – an ideological position, for example, that says that a person who works in an export processing zone is a second-class citizen and not entitled to the same rights and privileges as those who work elsewhere; or one that says that people who work in government services are second-class citizens, who

are not entitled to the same freedom of association as others.

So, I think that we have been set a remarkable stage for what I hope will be a very frank discussion. From our point of view, we need to state unequivocally that freedom of association is a fundamental human right. It is a basic entitlement that should be expected and respected without reference to a country's size or its wealth.

All too frequently we have heard – and those of us who have been coming to this Organization, especially during the Conference, from time to time, will be aware of this – excuses being made regarding the failure of countries to respect freedom of association and indeed the right to bargain collectively. We hear excuses being made on the grounds that countries are poor, or that they do not possess the correct level of expertise – and we are saying, as the Director-General himself said, that this right is basic; it is fundamental; it is as correct and proper as the right to life. Of course, there are some places where the right to life is not as obvious as you or I might think. Therefore, we would have to indicate that this is a fundamental right alongside any other rights, and we hope that, at the end of this exercise, everyone here will be looking for ways and means through which we could help to empower the International Labour Organization to be better positioned to influence governments across the world as regards how to achieve the goal mentioned by the Director-General: that all countries will be respecting the right to organize by the year 2015.

For those who are first-timers to the Conference or who are first-timers to these exercises, we need to reflect a little on the need for this debate and why it has been made an interactive debate. Organizations, we believe, and especially an organization like the International Labour Organization, must stand for something; they must believe in something, and that something must be the *raison d'être* that makes us come here and interact one with another, year after year. In the International Labour Organization, we stand for fundamental principles and rights at work, so much so that we have agreed – Governments and the social partners – that, even when countries have themselves not ratified the underlying Conventions, they must still respect fundamental rights and principles at work.

We are of the view, furthermore, that people who do not believe in those fundamental principles and rights at work have joined the International Labour Organization for the wrong reasons. They need to review what exactly it is that makes them recognize the value of this Organization, and if they think that the Organization has value, we believe that they must come back to these fundamental principles and rights at work which are, in fact, the very lifeblood of the Organization.

We want them, at the same time, to understand and recognize as we do that organizations can only move forward effectively if they judge their current position in relation to their point of departure and in relation to where they expect their destination to be.

In short, we are hopeful that those governments that are Members of the ILO have agreed with us that universal social justice underpins the Organization and that they are in a position to see where they are along the continuum from no justice to universal justice. If that is where we are going, we are of the view that we shall be doing the correct thing in having interactive sessions such as this one.

We have said before that we appreciate the field work conducted by the ILO teams so far and, in that regard, we want to indicate further that we recognize its fundamental nature. We have spoken of this, and, we do not want to judge the work that has been done regarding freedom of association only in terms of the number of ratifications. Nor must we view this in terms of the luxury available to selective economies, or the number of loans and investments that people have been able to get.

Unfortunately, there are countries where trade union freedom is being sacrificed for short-term competitive advantages. The Director-General has spoken about this before and we have recognized that the Report itself speaks very clearly about some countries which advertise their economic environments as being union-free environments; in other words, as environments where workers are not free to exercise the normal, natural freedom that the Director-General spoke of.

If we were referring to one or two cases we might excuse them as being an aberration, but the reality is that there are far too many countries that believe they have to behave in this way if they are going to benefit from investment opportunities, either from businesses or, indeed, from established international institutions.

We believe that this debate, if it does nothing more, must confront this issue and show it up for the erroneous way in which it presents the very important factor of human life and human freedom.

We would like to say, that the Report speaks of evidence and that, given the evidence, we have to be careful in our conclusions. I would suggest that not only must our side, the labour side, be very careful about what conclusions we draw, but we must not really look at how many more countries have ratified the Conventions. Instead, we have to look at what further indicators may be able to help us to determine whether there is indeed an improvement to our accurate assessment.

We ask the President, and we ask every man and every woman here to define our true understanding of the real assessment that we can make of the progress that has been made over the last five years.

We think that the true assessment lies in the level of compliance in legislation compared to the degree of compliance in practice.

In essence, what we are saying is that even if we can see evidence of an increased number of countries where the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) has been ratified, and we are pleased and satisfied that more countries have ratified it, it is not enough for a country to ratify the Convention to satisfy peer countries here at the International Labour Conference. They might have ratified another Convention, but in fact, they might be doing nothing about it when it comes to day-to-day practice.

The Convention has to be transposed into the law of that country and then we have to see evidence that the Government, as the main employer and the employers within that community, are actually observing the practice needed for compliance with the law.

If we do that, we would have to ask ourselves why we have the problems that the International Confederation of Free Trade Unions (ICFTU) has been pointing out from time to time: the ICFTU Survey 2003 reported that 213 trade unionists had been killed around the world in 2002, because they

had wanted to exercise their normal and natural right to organize. In 2003, the figure was 129.

In 2002, in addition to the 213 people killed, 1,000 people were the victims of violence when exercising their normal freedom of association; 2,562 people were arrested and detained for exercising their normal entitlement to associate freely and to join organizations or trade unions.

Something has to be wrong – not with the statistics, because we believe the statistics to be correct – but something has to be wrong with the communities that are engaged in such an arrangement that leads to such statistics.

We have to be able, in having this debate, to get to grips with that issue and to be able to put forward some ideas that will help.

The Report entitled *Organizing for social justice* shows us that Colombia is still a problem. I do not take these countries out of the air, I take them out of the Report: we have the Republic of Moldova; Zimbabwe; and Belarus. We have Bangladesh, another country that should be mentioned, which speaks about having welfare committees rather than independent trade unions where workers do not have to ask permission from the employer or the Government in order to exercise the normal behaviour of anyone: animals do not go around asking permission to associate, they just group normally. We are supposed to be a higher breed of animal; what is so different about our breed of animal that we have to ask permission to do what comes naturally to everybody else – to associate freely?

We are of course pleased with the Report. We are pleased with the increased numbers, and we should be. We are sobered by the reality that 50 per cent of workers across the world are still being denied their freedom to associate freely, because of the failure of five major world powers to ratify Conventions Nos. 87 and 98.

These are world leaders which we admire very much indeed, and we believe that they could make us admire them even more if they were to ratify these Conventions. I am not saying that no worker is free to exercise any degree of association, but I am saying that if we belong to an organization that is built and structured on the fundamental freedom to associate, then these countries which are so powerful and so influential should lead the way for the rest of the world by ratifying those Conventions themselves.

This contradiction is thrown in our faces daily when we speak to smaller, less influential countries and I believe that the Director-General and his staff are faced with the same problem every time they are called upon to speak to another country. I have – and I am just a small fry – been called upon by many governments and many trade unionists as well to look at the practice in some other countries and have realized the contradiction which comes from such countries being in the vanguard of those telling other countries how to associate or how to respect fundamental practices and laws. And so I say that today we have to face up to reality, and the reality is that there is “many a slip twixt the cup and the lip”, and the “lip” is saying one thing but the reality on the ground is fundamentally different from the “lip-service” that is being paid.

The Report is going to be made public and then the world will clearly see that justifications being used to suppress workers’ fundamental rights are based on a false assumption. The Report speaks at

some length about the economic arguments for ratification of Convention No. 87, and the ILO quotes not only its own studies, but also those carried out by the OECD and the World Bank, to show that the negative correlation between core labour rights and economic success has not so far been backed by empirical evidence.

The Report reassures us that strong respect for the fundamental right of freedom of association is a key condition for well-functioning, sustainable, innovative and adaptable labour markets. However, it is important to recognize that, although the Report might say that, we have to go back to what the Director-General said at the very outset about the position that we are starting from: i.e. that we should not be acting because the OECD or the World Bank have spoken up for the economic benefits or for the correlation or non-correlation between freedom of association and the economic benefits to a country, but because it is the fundamental right of all workers everywhere.

We want to come back to what the Director-General said about the position of the export processing zones. We identify workers in the export processing zones as being particularly vulnerable. We also have to mention workers in agriculture who are also particularly at risk in the exercise of their freedom of association. Above all, we have to realize the importance of both of these two areas.

Agriculture, because every country has an agricultural base and in every area we can think of efforts that have been made to reduce the standards which would apply to agricultural workers.

When it comes to export processing zones, we have to look to the statistics: there were 500 zones in 1996; 850 zones in 2,000; and now in 2004 there are 3,000 export processing zones. Some of these zones are expressly set down as areas where there must be no workers’ right to organize, not only are those workers denied the freedom to organize, but we have practical examples of situations where they go to prison when they are going to work in these places, because the conditions can only be properly described as prison camps. Those conditions include all kinds of abuses, of indecent work – coming from countries which support, develop and promote the Decent Work Agenda. There must be a contradiction in this somewhere. Workers who exercise their freedom to organize in those zones are, in many instances, black-listed and face retribution, including sometimes, physical threats. We believe that this is a problem that has some very serious implications for us, and we hope that we will not want to be so diplomatic as to avoid facing the reality of the problem.

We are very conscious of the fact that not all reports of abuses are able to reach the International Labour Office. We are very much aware that some people do not report violations, sometimes because of fear, sometimes because they say “what is the point, when reporting the problem does not mean anything except that we expose ourselves to further possibility of bad treatment, because nobody cares”.

The International Labour Organization, in the estimation of the Workers’ group, cares. We believe that the International Labour Organization has demonstrated that it cares and we believe that this debate gives us the opportunity to show, to an even greater extent, the level of our care and of our concern.

The Report properly addresses here the key challenge of organizing the unorganized and, once again, this was referred to in the introduction. There is a place for the informal sector in this discussion, and our preparation and our arrangements must include some structures to deal with that so that they can be given a place in the work that we have to do in order to give them the protection required. They need our protection so that they can enjoy the right to be heard and so that they can perhaps win the right to influence in their individual, domestic environments and, indeed, further afield.

As well as addressing the unorganized, the Report must address the obstacles to workers' rights that exist today in 2004. I have referred to this before: we must be able to tackle the contradictions in having people say to us, "do as I say, not as I do". This is something that we must get to grips with; we must try to deal with the efforts that are made to hinder the freedom which must exist for organization to be possible. The Report mentions greater universal ratification by all governments, but it must urge greater ratification. It must talk about the social commitment by all employers to freedom of association and to commit themselves to respecting that normal behaviour. It must talk about the total organizing effort that all trade unions must make, and say that they must be given the capacity to do so through the assistance of their governments and, indeed, of the International Labour Organization.

The Report makes reference to the global unions' efforts to organize and it does mention consumer awareness and pressure brought by the international community as factors contributing to the improvement of the situation. So, there has been some good news.

The first collective agreements have been signed in Guatemala in the export processing zone; workers in Honduras and Sri Lanka have won union recognition; and Bangladesh, we understand, is committed to reviewing the policies that we referred to earlier. But in the meantime, there are more than 50 million workers in export processing zones, many of whom are denied the right to organize and to bargain collectively. There are some 435 million workers in the public sector, more than half the world's population is in agriculture, over 80 million migrant workers all are working in the informal sector: the right to organize, the right to negotiate decent working conditions through collective bargaining, must not be considered a luxury. We need each of the ILO constituents to pull its weight in strengthening these rights, because we understand that they are fundamental rights of everyone.

During this debate, my colleagues in the Workers' group are going to be making some observations as well, and I hope that you will entertain them as they provide a contribution to strengthening the right to organize and to bargain collectively. We believe that ILO technical assistance is needed, to a very great extent, to help our primary objective of organizing the unorganized and we believe that this second Report, though an improvement on what we have had so far, must be recognized as a work in progress. We must not sit on our laurels, on the part of governments or employers or the workers, or of the Office, but we all must put our noses to the grindstone to make sure that the objective set by the Director-General of 2015 being the absolute deadline for full realization of freedom of association, is not only met, but is met well before that date.

Mr. POTTER (*Employers' delegate, United States, speaking on behalf of the Employers' group*)

First, I would like to commend the Office for having relocated this meeting. It is obvious to us all that here we are on a level playing field, and that this is a meeting room where we can have a conversation, can all look each other in the eye and have a discussion. I already feel differently about this meeting than I did about the four previous meetings, just because of the environment that we have here.

We very much appreciate the fact that the Director-General is here today. We especially appreciate his statement. It is clear to us that he was speaking from the heart, and by doing so, was claiming ownership of an important instrument in the ILO, namely, the Declaration on Fundamental Principles and Rights at Work, and we very much appreciate that.

We want the Director-General and the members of the Declaration team to know that any criticisms we may have of the Report or the direction of the Declaration should be taken in the spirit in which they are given, because we are seeking to ensure that the Declaration achieves its full potential in accordance with the principles of this Organization.

Mr. Trotman's statement, I believe, is a good starting point. He emphasized first the importance of this interactive discussion and demanded that Governments meet their commitments under the Declaration. For this reason, we should look slightly differently at the question of ratification. We think that, what at the end of the day is most important in terms of the Declaration, is the full implementation and achievement of the fundamental principles. Yes, ratification can be important, but ratification is often a symbolic gesture rather than a real gesture. What we are looking for here is the achievement and realization of the first principle of the Declaration, namely freedom of association and the effective recognition of the right to collective bargaining.

This year's Global Report, which, as Mr. Trotman said, represents the beginning of the second cycle of the Global Report follow-up, is a substantial and welcome improvement over the first Global Report on the first principle that we discussed in 2000. This Global Report is well-written, readable and non-legalistic. For this, the Office is to be commended and congratulated.

I think it is important for us all to bear in mind the objectives of the Declaration. In paragraph 2 of the Declaration, the International Labour Conference declares that all Members have an obligation to respect, to promote and to realize, in accordance with the Constitution of the Organization, the principles concerning the fundamental rights which are the subject of the eight fundamental ILO Conventions on human rights in the workplace.

This Global Report addresses the first principle, namely freedom of association and the effective recognition of the right to collective bargaining, which is based on Conventions Nos. 87 and 98. The governmental commitment encompasses the scope of these two Conventions without the detailed legal obligations of the two Conventions unless, of course, the Member has ratified one or both of the Conventions. It is clear that Members have no obligations with regard to specific provisions of Conventions that they have not ratified. The Declaration is not wider in scope than the fundamental Conventions themselves.

Under the first principle, the Declaration seeks to promote a policy environment that promotes freedom of association and the effective recognition of collective bargaining. If that policy environment exists, then the organizational results are up to the workers' and employers' organizations.

Although we understand that the Global Report is intended to provide a dynamic global picture of the principle under consideration, as last year, employers continue to be concerned about the wide-ranging nature of the first-three sections of this Report. These sections address and do a good job of discussing global trends, but do so without making any distinction between the policies that are specifically addressed under the Conventions. For example, while we have no problem with the section on framework agreements, we think that undue emphasis is given to those agreements because, in terms of our view of the Declaration, we are concerned first and foremost with the fundamental policy failures in achieving the principle in question.

As we said in the debate on the 2000 Global Report, we need to determine in an organized way the underlying policies encompassed by this first principle. For example, Mr. Trotman identified a policy that we could agree to, as it is a fundamental principle, in other words the right to life. Clearly, that is the kind of fundamental matter that we are concerned about.

In his opening statement, the Director-General provided a basis for a conversation on the essential matters that are of the utmost concern under the Declaration and its first principle.

In the 2000 discussion, we suggested two or three other possible policies that flow from this first principle, namely the right of employers and workers to establish and join organizations of their own choosing, the right to manage internal affairs without interference from public authorities and the right to be free from acts of interference from employer or worker organizations.

Great care should be taken to keep in mind the constitutional and legal basis for the principles and rights encompassed in the Declaration.

In the context of this Global Report, in our view, the fact that this has not been done gives the Report a somewhat unfocused quality. For example, and I understand the editorial reason for doing this, the Report continually uses the shorthand versions of the Declaration's first principle. This, I think, could create some confusion as to what the principle actually encompasses. This confusion could have been solved at the very beginning by a simple footnote to say that, for purposes of the Report, we will use a shorter version, but it should be understood that, when we use this version, it means the entirety of principle No. 1.

The second point for discussion, I think, illustrates this additionally for us. The second point for discussion, related to collective bargaining, illustrates this lack of focus. In the Declaration we are looking at how, when and where the ILO technical cooperation can address fundamental serious policy failures. We think this question is not focused enough on what the policy failure is relating to collective bargaining but rather, it is looking at what I would consider to be leading ethical issues.

First and foremost we are trying to get at the fundamental problems. I think eventually, hopefully, in our lifetimes, we will be able, in a concrete way, to

address leading questions relating to collective bargaining.

Part of the purpose of the Global Report follow-up is intended to serve as a basis for assessing the effectiveness of the assistance provided by the ILO. Chapter 4 sets out the technical assistance programme addressing the first principle. However, we are given no information about when these programmes started, at what stage they are, how effective they were – at least in the short term – plus specific lessons that have been learned beyond the general notions contained in the Report, what follow-on activities are needed and how many programmes may be in the pipeline. These were valuable pieces of information that would have put us in a better position, frankly, to provide some advice and guidance to the ILO for future action plans.

As far as we can see, this Report does not offer a basis for a comprehensive assessment, something the Governing Body's Committee on Technical Cooperation asked for and expected in November 2000, as part of the second Global Report on this principle. We did not see that. This is particularly troubling in view of the acknowledgement in paragraph 382 that "data from ILO technical cooperation should be better extracted and exploited in terms of problem analysis, evaluation of impact on target groups and in drawing policy lessons from the changes effected at the country level through these projects".

Several of my Employer colleagues will intervene this morning and this afternoon and give their views on the value of the ILO Declaration programmes. Another purpose of the follow-up is to determine technical cooperation and action plan priorities. We think the emphasis that has been placed, and is placed, on ratifications on the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and Right to Organise and Collective Bargaining Convention, 1949 (No. 98), is the wrong priority. We think for the first round it may have been a correct priority, but I think that at this stage, ratification, or lack of ratification, in and of itself says nothing, says nothing about implementation, the first principle in practice. The priority, in our view, for the foreseeable future should be on implementation by all countries, regardless of whether they have ratified the fundamental Conventions.

Overall there is very little concrete information in this Report on which to determine priorities. It is astonishing to read, in paragraph 379, that the ILO does not have "an up-to-date picture of the legislative situation regarding freedom of association and the effective recognition of collective bargaining".

Surely a global serious policy failure or gap analysis under the first principle can be conducted to identify needs. The fact that the Report acknowledges the challenges in identifying true needs does not inspire confidence that Declaration programmes will be targeted and focused over the next four years, rather than being random and scatter-shot in responding simply to demand. Rather than a passive demand-based system of technical cooperation, attention should be given to a proactive rapid response strategy for serious immediate need situations.

As we begin this second round under the Global Report follow-up, we have entered a new phase. For the most part, in the first four years, governments in their presentations on the special day of the Confer-

ence paid homage to the value of the Declaration and their commitment to it. As the Expert-Advisers said in paragraph 9 of this year's Review of annual reports under the follow-up to the ILO Declaration and I quote in full "The Declaration speaks about respecting, promoting and realizing fundamental principles and rights at work. It is worth reflecting upon these concepts. Respect is about the political will to achieve the principles, not mere lip-service. Promotion is advocacy, backed by action and programmes toward positive change. Realization means achieving improvement in the daily lives of individual women and men, their families, workplaces and communities. Thus, the promotional aspect of the Declaration is about change, and it is about evaluating progress, in both legislation and practice. All this work requires a continuous effort in awareness raising. Promotion is about initiating progress from a given starting point – no matter how low that initial point might be – towards full realization of the Declaration principles and rights."

The Employers agree with the Expert-Advisers and consequently we are going to be looking to governments today to say something more than swearing allegiance to the Declaration and platitudes. The constitutional commitment under the Declaration requires member States to tell what they are doing to respect, promote and realize this first principle. Now is the time for countries to step forward and ask for technical assistance and tell us what they are doing to achieve and realize this principle. This will facilitate an interactive discussion that is essential to targeting and prioritizing the Declaration's success.

Original Arabic: Mr. AL TAYER (Minister of Labour and Social Affairs, United Arab Emirates, speaking on behalf of the Gulf Cooperation Council)

In the name of God, the Merciful, the Compassionate! It is a great pleasure for me to pay tribute to this distinguished Conference on behalf of the Ministers for Social Affairs of the Gulf Cooperation Council, whose members include the United Arab Emirates, the Kingdom of Bahrain, Kingdom of Saudi Arabia, the Sultanate of Oman, the State of Qatar, the Sultanate of Kuwait and Yemen.

At this special sitting, devoted to the discussion of the Global Report under the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work, we are discussing the Declaration whose purpose is to establish social justice.

It is my duty to express my thanks to the Director-General for his excellent Report entitled *Organizing for social justice*, which deals with the first principle of the Declaration, namely freedom of association and collective bargaining.

We would like to express our support for the contents of this Report, for views, objectives and coherent guidelines on how to tackle this important issue.

We fully agree with the Director-General's opinion regarding the possibility for societies to apply this Declaration in order to consolidate democracy and boost industrial growth. We have embarked on a process of implementing several of the principles contained in this Declaration. We also agree with the Director-General about the challenge that lies ahead. In this connection we have made a successful start in recent years on some aspects of the follow-up to the Declaration. We will continue to strive to apply it better.

An objective reading of development in our countries in the last few years points to successes and indicates that steps have been taken to intensify our commitment and to increase worker representation by insisting on the right of association in accordance with the spirit of the Declaration.

In 2002, we adopted trade union legislation, the General Confederation of the Workers of Bahrain was established and we participated in various trade union movements at the local and international levels.

The Kingdom of Saudi Arabia has also taken steps to implement the Council of Ministers' decisions regarding the creation of workers' committees and some of these committees have actually started to operate. For the first time, the leading officials of these two workers' committees are attending the Conference. Furthermore, a bill which has been submitted to the Shura Council in the Kingdom of Saudi Arabia takes into account labour standards and the need to coordinate activities with the ILO.

The new Labour Code adopted in Oman contains a specific chapter regarding the right to collective bargaining and the setting up of workers' committees in keeping with the provisions of international Conventions and in order to promote social dialogue.

Last May, the Sultanate of Oman adopted two ministerial decrees regarding the rules and the composition of workers' committees in enterprises, as well as the rules and regulations governing the operation of worker representation. They give workers the right to choose their own representatives in workers' committees. These committees provide a framework for organized worker representation within each firm so that they can defend their rights and interests in all matters relating to their protection at local, regional, international and Arab meetings and conferences.

The United Arab Emirates have drawn up a draft law which authorizes the creation of labour institutions. The law is currently in its final phase of adoption.

The State of Kuwait, within the framework of the follow-up, has taken a vital step by adopting Law No. 11 of 2003, which allows civil servants and workers in the oil sectors to organize on an equal footing with workers in the private sector.

The Republic of Yemen has also strengthened freedom of association by establishing a legislative structure in accordance with international instruments. It passed labour legislation and held elections for the General Confederation of Worker Unions at the beginning of this year.

As part of measures to modernize the State, the Emir has adopted the permanent Constitution of the State of Qatar as a further step towards the creation of a state of institutions in Qatar.

A new labour law which was passed in May 2004 contains a chapter on collective bargaining and gives workers the possibility to set up their own works committees to defend their rights and represent them in all matters regarding labour affairs.

The new legislation further provides workers with the right to create general industrial committees. These general committees are members of the General Confederation of Workers of Qatar. This legislation also provides for the right to strike and the right of employers and workers to bargain collectively and negotiate collective agreements. It also establishes equal rights to work, employment, train-

ing and to equality between working men and women. In order to promote the Declaration and respect for international labour standards, the State of Oman has gradually ratified most of the basic ILO Conventions over the last few months.

The Committee of Experts, in its report this year, has commended the State for the steps it has taken. It has also welcomed the measures adopted by the Gulf Cooperation Council. In this connection, we would like to reaffirm our determination to pursue dialogue and constructive cooperation between the social partners. These efforts have recently culminated in the organization of joint meetings and symposia, which are a reflection of the cooperative approach to collective bargaining in GCC countries. The latest meeting was held last April in Qatar and took the form of a regional workshop on the ILO Declaration on Fundamental Principles and Rights at Work. It brought together representatives of the social partners from the GCC countries and was supported by the ILO.

It goes without saying that to talk about the right of association constitutes progress in the implementation of workers' rights. The growing number of ratifications of international conventions will acquire its full significance only when we assess the reforms and innovative measures adopted by the GCC countries. These seek mainly to build the capacities of workers and social institutions and to ensure their effective participation in decision-making and the implementation of reforms. We are thus endeavouring to strengthen the role of civil society institutions on the basis of inalienable Islamic principles calling for consultation, peace and equality. This is what the Global Report refers to when it suggests that the authorities of these countries are aware of the implications of establishing mechanisms for the election of persons to head organizations representing the world of work.

We wish here to reaffirm that political will must be backed by effective steps allowing workers to create their own representative institutions. All dynamic societies trying to achieve progress aspire to dialogue and the strengthening of its mechanisms, a dialogue based on an acceptance of the diversity of experiences in a world where attempts to impose a single culture could dehumanize globalization by seeking to standardize all aspects of daily life.

Today humanity is trying to replace confrontation with dialogue and to accept diversity and multi-representation in order to create a peaceful, stable and just society where future generations will be able to build a better future.

Mr. DE GEUS (*Minister of Social Affairs and Employment, the Netherlands*)

Today, 10 June 2004, is a very important date because we are celebrating two world events today. The first is the election of a new enlarged European Parliament; the second is the discussion, here in Geneva, on the second Report, that deals with freedom of association and the right of collective bargaining under the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work. I am happy to be able to take part in both of these world events; if I have to leave early, it is to cast my vote for the new European Parliament.

I am pleased to be taking part in this discussion and I would like to raise five points. I will speak about The Hague, about the "gap", about actions, about allied forces and about the ILO.

So firstly The Hague. The Declaration and its follow-up is of great importance to the Netherlands. Unfortunately during the last two years, the number of people attending the discussion on the Report has decreased. To express our concern, in November last year we organized an informal seminar in The Hague, the city of peace. This seminar was attended by around 60 participants from all over the world, representing the constituents of the ILO. All present expressed their commitment to the Declaration and its follow-up and I hope that the spirit and the energy we saw during that seminar will be with us today and will stay with us in the ILO as we carry out its difficult tasks.

Now about the "gap". I have read the Report with great interest and have to conclude that the overall picture remains troublesome. The last four years have shown continued progress in the ratification of the two Conventions which is definitely a step in the right direction. But, at the same time, we see that the implementation of the Conventions is clearly lagging behind. The Netherlands wants the Global Report to remain a strong instrument in the follow-up to the Declaration on Fundamental Principles and Rights at Work by providing us with a dynamic picture of global development and by leading the way to setting priorities for the next four-year period. There is no doubt that universal ratification of the Conventions concerned remains a priority. This, however, is not enough when universal ratification goes hand in hand with a gross violation of union rights. So the central question is: How can we mobilize the political will to decrease the gap between ratification and implementation? I listened very carefully to the Workers and Employers and I am glad to conclude that this question is a common concern.

So after The Hague and the "gap", I will now move on to talk about actions. Your draft points of conclusion for discussion are very helpful and I will comment a little bit on that. The five actions I take from the points of discussion are the following:

The first action is monitoring: how to monitor social and economic results and how to monitor both in a way which will show the social results that go hand-in-hand with economic growth and prosperity?

The second action is "spreading the good news": how to communicate, invest in communication and let the people of the world know?

The third action is "focusing": you have already raised the question of how to focus not only on sectors but also on regions. I think it is very important, not only from a rational and intellectual point of view, but also from a political point of view, if possible, to focus on the requests of parties in a particular sector or region. So, focus if possible on requests.

The fourth action is cooperation: cooperate with institutions like the World Bank and the IMF. I will come to that. It is very important to cooperate in the international field.

The last action, and I listened very carefully to my friend Mr. Trotman who was also present in The Hague and I listened to him today very carefully. I picked up one thing, and that is an important action as to how to protect individuals involved in processes such as taking a role as a spokesperson. We have to protect those people who make themselves vulnerable to any harm.

After actions, I come to the allied forces. First of all I must mention the report of the World Commission on the Social Dimension of Globalization. I will explain to you how this can be an allied force. But first, I have to say that the long name of this report puzzles me. How can we speak about this report in a simple way? The World Commission on the Social Dimension of Globalization is a bit of a mouthful. Its acronym, WCSDG, is unpronounceable. I tried to make a useful sentence that reminds us of the content of this report; its initials, WCSDG, can also be the initials of the following sentence that expresses the meaning of this report "Worldwide Commitment to Social Rights Deliver Growth". I think this is, in essence, what this report is about. If it is not for social purposes, then it is for economic purposes. We have to follow the lines of this report. It could be a valuable asset when dealing with our questions.

The report not only reconfirms the importance of promoting, respecting and realizing labour standards worldwide. It also urges for more coherence in social, economic and financial agendas. This means that international organizations should cooperate in a more effective way and governments should speak with the same voice in the different organizations in which they are active. The position that governments take on this report could be an important allied force.

By saying this, I underline that it is surprise that for instance the G8 countries are talking about a report like this. It is not only about social justice, it is also about economic growth. Speaking about allied forces, we must not forget the solidarity of workers worldwide. It is not only governments and employers, but also workers and trade unions worldwide who can show solidarity with their colleagues in countries like Colombia, as will be discussed today by the Dutch Christian National Federation of Trade Unions (CNU) in The Hague. So maybe this is the third important world event taking place today. So, expressions of solidarity worldwide are also a very important allied forces.

My last point relates to the ILO. The ILO's role as guardian and promoter of labour standards is crucial and indisputable. We call on the ILO to make its important work more feasible within the international community, especially since a growing body of evidence indicates that respecting union rights and other core labour standards contributes to improving economic performance. This year we are commemorating the ILO's 85th anniversary. A lot has been accomplished by this unique Organization which is close to our hearts. But, as is shown by this Global Reports, many more challenges lie ahead.

The Netherlands is committed to supporting the ILO in facing and overcoming these challenges. We look forward to an inspiring discussion.

(Mr. Maatough takes the Chair.)

Mr. POTTER (*Employers' delegate, United States, speaking on behalf of the Employers' group*)

Just briefly, as a participant in the conference held in The Hague last November, I want to especially commend the Netherlands for hosting that conference. Among many positive things that happened at that meeting which was the first conversation of the Employers' group assessing what had happened during the last four years. The fact that this meeting is being held today is clearly a result of that meet-

ing, due in part, as we have seen today, to the good humour of the Minister, but also to excellent piano-playing skills. I also want to commend the statement by the representative of the United Arab Emirates, because I believe that the substance of his statement goes to the heart of what the Declaration commitment is all about. He talks specifically about the things they are doing to achieve this, so we thank you.

Sir Roy TROTMAN (*Workers' delegate, Barbados, speaking on behalf of the Workers' group*)

It is not my intention to intervene in the discussion, but, like Mr. Potter, I think it is necessary to do so at this stage. He touched on the comment from the representative of United Arab Emirates and I would like to come back to that more fully later to say that they are moving in the right direction, but we want to hear about trade unions and not about works' councils. But, really, I wanted to speak about the position of the Honourable Minister De Geus. Now, I agree with Mr. Potter regarding his piano-playing, and I also wish to make the point that he forced me to sing when my voice was not quite ready for it, but I am now ready to cut a record so if he will accompany me with his playing I am ready to make my first record for 2004.

We would like to thank the Dutch very much for hosting the exercise and preparing us for today's work. They were very generous host, but beyond that we had a splendid occasion where governments, employers and workers, looked very seriously at the question of the work of the follow-up and the principles that underpin it, and I think the Dutch should be congratulated for their contribution.

Original Arabic: Mr. NEFFATI (Minister of Social Affairs and Solidarity, Tunisia)

First of all, I would like to thank the Director-General for the efforts he has made concerning the 2004 Global Report under the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work. I am delighted to be able to take part in this discussion, because Tunisia attaches paramount importance to the question of social justice. Social justice cannot exist without development. It is therefore necessary to respect the basic principles of work and this is an essential prerequisite to strengthening competitiveness.

Collective bargaining makes it possible for the workers to fight for their rights and means fair relations between the different partners. Freedom of association and collective bargaining play a decisive role in economic and social development and contribute the development of relations between the various partners, making the achievement of goals possible. They therefore establish the balance which is necessary in the marketplace.

Trade unions play a fundamental role in strengthening the rights of workers. They also make it possible to establish labour standards, particularly against the backdrop of the changes taking place in the world. Workshops and meetings should be organized in order to allow people to take part in discussions that promote the interests of the various partners and monitor respect for their rights.

Tunisia considers human rights to be fundamental rights. We are making considerable efforts to establish these rights because we consider them to be essential and indivisible. Economic and social de-

velopment is one of the rights of employers and workers. This is why we are preparing and implementing plans aimed at particular aspects of development and why we are taking steps to implement action plans relating to labour. The right to collective bargaining is considered in Tunisia to be a part of our freedom of association and trade unionists' rights. We need to acknowledge the rights of trade unions to collective bargaining at the national and global levels. I believe that the ILO should play a decisive role in assisting countries to apply these principles.

Original Arabic: Mr. EL AMAWY (Minister of Manpower and Emigration, Egypt)

Allow me at the outset to express my pleasure in attending this important assembly, since freedom of association and collective bargaining constitute an essential pillar of fundamental human rights, and an integral part of the democratic process, as well as the means of linking social objectives and economic growth.

The Report states that there are about 80 million economically active persons working in countries other than their own, most of whom are employed in jobs at the lowest level. I fully agree with the Report when it points to the need for these workers to be involved in efforts aimed at the effective recognition of their right to collective bargaining and the right of their representatives to participate on equal footing with others in negotiating collective agreements.

The Report confirms the importance of ensuring respect for labour standards within every community. We fully support this principle, since it embodies both the spirit and the letter of the ILO Declaration on Fundamental Principles and Rights at Work, as mentioned in the Report. It is essential to point out that the follow-up to the Declaration provides for a phased process.

It should be borne in mind that industrial relations systems vary from one region to another. Egypt respects the principles of human rights and is committed to the implementation of labour standards. On this basis it has adopted machinery for tripartite consultation to deal with labour disputes, and to draft or amend labour legislation, so as to accommodate the interests of all the parties.

This meeting today to discuss the Global Report, constitutes a step forward in our efforts to strengthen freedom of association and the effective recognition of the right to collective bargaining, and we fully support the recommendations and proposals included therein. I entirely agree with the view that while numerous problems remain, there is no doubt that these problems and difficulties are accompanied by improvements in the field of collective bargaining, which contribute to the solution of these problems. There is a need to strengthen collective bargaining on an equal footing, and we will certainly have an invaluable exchange of views that will help strengthen dialogue.

I believe it is essential to emphasize workers' rights in the informal sector and the agricultural sector, and the latter should be given top priority. Technical cooperation is also an area in which we need to set up the necessary machinery to carry out studies and surveys, and prepare statistics, in particular with regard to migrant workers.

Concerning the Report of the Director-General entitled *The situation of workers of the occupied*

Arab territories, in the light of Israeli practices in the occupied Arab territories, consisting of closing down many trade unions and professional institutions, which are being attacked by military personnel, confiscating their documents, and arresting and expelling trade unionists and restricting their freedom of movement, as the Director-General mentioned at the beginning of the meeting, the ILO, as part of its basic responsibilities, must guarantee the exercise of trade union rights and freedoms of the workers in the occupied Arab territories.

In conclusion, I should like to express my gratitude to the Director-General for his Report, and I sincerely hope that in coming sessions we will be able to note improvements with regard to the practices I have just mentioned. I should like to commend our distinguished brother from the United Arab Emirates for his statement, in which he referred to the marked improvements achieved by the member States of the Gulf Cooperation Council in regard to respect for these fundamental rights and principles.

Mr. SWEENEY (Workers' adviser and substitute delegate, United States)

The Director-General's Report, *Organizing for social justice*, provides a snapshot of the state of union organizations around the world, as Sir Leroy Trotman has outlined for the Workers' delegates.

The Report highlights a number of positive developments that have emerged over the last four years; the beginning of labour law reform in the Gulf State region, the promotion of freedom of association as an essential component of the global strategy to combat poverty and new forms of employer/worker cooperation.

Unfortunately, despite the Report's forward-looking perspective, the relative number of workers belonging to unions has declined since we last visited this subject four years ago. The trend line is going in the wrong direction, and this is the case in both developing and developed countries, and for workers from virtually every geographic region around the world.

In the United States, over 42 million workers say they would join unions if they had the opportunity, but the truth is that significant categories of workers in our country do not even have the right to organize under the law, including millions of agricultural, domestic and supervisory employees. Millions of other workers who are eligible for union membership cannot freely join or form unions because of intimidation, harassment and termination tactics of employers.

At least one in every four workers directly involved in an organizing campaign in the United States is the victim of an anti-union firing or termination. Even if workers manage to prevail in their struggle to win union representation in the face of overwhelming employer reprisals, they still fail to win collective bargaining agreements in over one-third of the cases owing to bad-faith bargaining tactics and the power of employers to permanently replace economic strikers in the United States continues to fundamentally violate the effective exercise of freedom of association.

In the public sector, employees of our Federal Government and in many states are denied their fundamental rights to bargain over essential terms of employment as well as being denied the right to strike. Moreover, the current administration in the

United States has denied union representation rights to 170,000 homeland security workers, including 60,000 airport screeners, based on the pretext that their rights to self-organization are not compatible with national security.

The Director-General's Report informs us that only 18 member States of the ILO have failed to ratify the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), or Right to Organise and Collective Bargaining Convention, 1949 (No. 98). The United States is one of these 18 countries. The reality is that our labour laws at the federal and state levels are not in compliance with the provisions of these core human rights Conventions, dimming the prospects for ratification any time soon.

The United States Government acknowledged deficiencies in its 2000 report to the ILO on freedom of association and the right to bargain collectively when it conceded that there are gaps in our labour laws that are inadequate in ensuring that these rights are protected.

For all of these reasons, the United States labour movement, the human rights community and scores of congressional representatives are urging the passage of the Employee Free Choice Act that will bring labour laws more into compliance with ILO standards.

The proposed Act, which now has 200 cosponsors in the House of Representatives and 31 in the Senate, provides for union recognition upon verification of majority support, first-contact mediation and arbitration and stronger employer penalties for anti-union tactics. Even after this Law is enacted, there will still be areas in our labour law that are in conflict with the principles and rights associated with freedom of association and the right to bargain collectively. The 2000 United States Government report to the ILO held out the possibility of ILO technical assistance to help identify these areas and develop recommendations to address them. It is time for the United States Government to officially request such ILO assistance.

In addition, our Government should implement the recommendations of the Committee on Freedom of Association concerning the Hoffman case to provide legal protections for immigrant workers' freedom of association.

The Director-General begins his Report by emphasizing that the real debate cannot and should not be on whether to respect freedom of association and the right to bargain collectively, but on how best to respect and make use of them. Given the precarious nature of work in today's global economy and the growing need for workers to have voice and representation under such circumstances, it is now time for the ILO to go beyond discussion, as good as today's has been.

In very concrete and practical terms, we need to hold governments and employers to their pledge to protect and promote these core labour standards.

Original Portuguese: Mr. PAIS ANTUNES (Secretary of State for Labour, Portugal)

First of all, I would like to congratulate the Director-General for the excellent Report that he has submitted to us on freedom of association and the right to collective bargaining, as part of the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work. When, four years ago, the first report on freedom of association and the right

to collective bargaining was discussed, the Portuguese delegation spoke on behalf of the European Union and suggested that successive reports should present a more dynamic and global image, and should give an account of the situation in various regions with regard to these fundamental rights.

It is with great gratification that we take note of the substantial improvement in this presentation, that is, information on the situation of freedom of association and the right to collective bargaining in general. However, we regret to have to note that a lot remains to be done in order for these fundamental rights to be effectively acknowledged and complied with in all member States. About half the workers and employers throughout the world are not yet covered by the fundamental Conventions concerning freedom of association and the right to organize, and the right to collective bargaining. With regard to certain member States that have not, as yet, ratified these Conventions, we have very little information.

It is worrying to note that various regions in the world continue to perpetrate persecution and discrimination against trade unionists because of their trade union activities. Apart from these very serious breaches of trade union rights, there is a considerable number of situations in which there is no effective acknowledgement of the right to collective bargaining.

It is particularly relevant to consider the analysis made in the Report of the situation of certain workers who experience the greatest difficulties in having their trade union rights respected and complied with. I refer in particular to workers in the public sector, agriculture and export processing zones as well as to migrant workers, domestic workers and workers in the informal economy, who in many areas of the world continue to face enormous difficulties with regard to trade union rights.

Allow me to make particular reference to the most vulnerable groups of workers. In the last few decades, export processing zones have developed enormously. However, the legislation that is applied in some of these processing zones does not guarantee trade union rights for workers. On other occasions, although the legislation formally guarantees such rights, there are many practical obstacles to their implementation and to their recognition.

We know that the absence of trade union rights can lead to or encourage investment in the export processing zones, but these situations, which could be described as social "dumping", are unacceptable because they not only jeopardize workers in the export processing zones, but also affect employment in those countries that do respect fundamental labour rights. These situations are clearly rejected in the Declaration, which emphasizes, very justifiably so, that labour standards cannot serve the purposes of protectionist interests.

I am referring also to the very worrying situation of migrant workers with regard to trade union rights. Migrant workers have fundamental rights. Migrant workers who are in an irregular situation also have fundamental rights. In other words, even though their situation may not be regularized, even if they have to leave the country, these migrant workers in an irregular situation should, insofar as they do work, have their fundamental rights recognized and should be able to enjoy them like any other worker.

The position that has been adopted by the Committee on Freedom of Association within the Governing Body of the ILO is most appropriate and should be disseminated accordingly. A globalized world cannot tolerate a situation in which workers continue to live without trade union rights.

The Report that has been drafted within the framework of the ILO's Declaration essentially intends to serve as a basis in order to assess the technical assistance provided by the Organization and to determine future priority with regard to cooperation. From this standpoint, the Portuguese Government supports the proposals put forward by the Director-General, namely that, in cooperation with governments, trade unions and employers' associations, our efforts should be concentrated in four basic areas:

First, the ratification of the fundamental Conventions on freedom of association and collective bargaining; second, providing support to the most vulnerable groups of workers; third, the development of the legislative framework and the public institutions that regulate the labour market; and last, providing consultation services and activities to raise awareness in society as a whole for the purpose of promoting fundamental rights at work.

Original French: Mr. RAÏS (Spokesperson for the Minister of Labour, Algeria)

Since the Minister of Labour of Algeria is absent I would just say one or two words on his behalf, if I may.

Freedom of association and collective bargaining have now become standard practice in many countries.

Credit for this is, to a great extent, due to this Organization because it has fought so hard to ensure that social dialogue and collective bargaining and freedom of association have become a tangible reality.

We believe that what we have to do in the future is to ensure follow-up on the application of the relevant ILO Conventions and Recommendations.

We also need to assess, analyse and measure the progress that has been achieved in respect of what are, after all, very important matters in the world of work.

We need to aim at perfection and, where perfection is impossible, at least at improvement, so as to spread respect for the right to collective bargaining and freedom of association around the world.

Any approach aimed at achieving this should be developed in a spirit of cooperation between the Organization and its various member States.

Our future work, in our opinion, should be focused particularly on the informal economy and on migrant workers because these two issues seem to us to be matters of priority. They are certainly matters of priority for my country because we are in the process of switching to a market economy and, as a consequence, we have seen an increase in the size of our informal economy.

Technical cooperation by the ILO is extremely important and we would like to see it strengthened in comparison with what it has been in the past.

We would also like to see it contribute to creating the economic and social development strategies in those countries that are in the process of implementing the fundamental rights that direct the labour market.

Technical support and the expertise of the ILO are a sine qua non if we are to bring about social justice and achieve the social progress which so many of our countries, particularly my own, are striving to achieve.

Mr. KONDITI (*Employers' delegate, Kenya*)

Thank you for giving me the opportunity to comment on a few points during the discussion of the Global Report.

I have three or four points that I would like to mention here.

One is human resources development in terms of training. We would like to thank the ILO for giving us an opportunity, or at least two opportunities, to train two of our officers at the International Training Centre of the ILO in Turin during the year 2003.

One of the training courses was on gender equality, poverty eradication and employment promotion. These are very important issues now. The other course was on the role of employers' organizations in combating child labour.

We appreciate these courses and the other courses offered by the Centre. Therefore, we appeal to the ILO to keep us, the Federation of Kenya Employers and other employers in mind, for training opportunities that may be offered by the Centre in the future.

The other issue I should like to mention is law reform, that is labour law reform, not just ordinary law reform.

Kenya is already moving towards the full realization of the fundamental principles and rights at work.

Under the ILO project on Strengthening Labour Relations in East Africa, which is commonly known as SLAREA and which was founded by the United States Department of Labor, the Government appointed a tripartite task force to review our labour laws which we consider today to be quite problematic in some areas.

The task force, which was established back in 2001, completed its work and submitted a report together with draft bills on every piece of legislation that it would like to be implemented.

This was done on 28th April this year.

Some of us would also like to express our gratitude and appreciation to the United States Department of Labor and ILO for this assistance.

We have already started to see the positive effects of the activities carried out as part of this project, particularly in the management of our labour relations. The Government and the social partners are now making earnest efforts, not only to promote tripartism, but also to resolve labour disputes voluntarily at the parties' own levels (and I am referring to the two parties – employers and workers). When they fail, they go to the Government for mediation. As a measure of that success, last year 2,323 labour disputes were reported to the Minister for Labour and only 142 were referred to the Industrial Court for Arbitration. This, to us, is a success. In other words, it is clear that the parties – the workers' and the employers' organizations, or the employers themselves – are making an effort to resolve their labour disputes.

The bills are proposing changes that are very crucial in our labour relations. We consider these bills to be at a very critical stage and they must be translated into operative labour laws. Therefore, we should like to appeal to the ILO. We know that the United States has already indicated to the ILO that

it has no further funds to complete this process of translating Recommendations into laws, and so we are appealing to the ILO to see if they can help Kenya to implement these proposals.

It is estimated that in Kenya, about 57 per cent of the population is living below the poverty line. If we can get these laws implemented, we would be able to strengthen our tripartite efforts in the fight against child labour and in the fight against HIV/AIDS in the workplace and promote productivity for the creation of more employment opportunities and reduce our poverty level.

My federation has been running a child labour project under the IPEC programme and we are also running projects on HIV/AIDS in the workplace and on the development of small and medium-sized enterprises with the assistance of the UNDP.

We should like to appeal to the ILO to see how it can strengthen our activities in these areas.

The other area that I would like to mention here is corporate social responsibility. Social dialogue, through the collective bargaining process, is fairly well-developed in Kenya (or if I may use the word, "relatively" well-developed). The parties generally know their rights and obligations, as well as the procedures to be followed when disputes do arise. Our collective bargaining process does not involve non-governmental organizations (NGOs), which are organizations formed primarily to promote social welfare, development, charity, research and the mobilization of resources.

However, of late, employers have been faced with an increasing number of NGOs claiming to be promoting the principles of corporate social responsibility. They use a variety of codes of conduct or codes of practice which they want to impose on employers, particularly those engaged in export activities.

Some of these codes make reference to the international labour standards of the ILO and these NGOs have used them to engineer illegal strikes, particularly in the flower industry and in the garment sector of the export processing zones. They have gone beyond, in our own judgement, their mandate and their activities, and, as a matter of fact, have disrupted our industries and are harmful to our industrial relations system.

We have taken corporate social responsibility as a voluntary initiative, which we have seen to be good for business. We have started to promote it, at least in agricultural sectors such as coffee and sisal, in collaboration with the United Kingdom's Department for International Development.

However, our position on whether NGOs should be involved in industrial relations is very clear. We do not want them to be involved and would not like them to be encouraged to be involved in industrial relations through the use of corporate social responsibility. It has been established that they do not want industries to promote or create employment for the majority of our Kenyan population, and particularly for the young workers. We would like them to observe the rules that govern tripartism in Kenya.

We appeal to the ILO, through the Governing Body, to study the use of corporate social responsibility and its impact on business and to formulate some recommendations that would be appropriate for the promotion of corporate social responsibility as a voluntary initiative.

Freedom of association and freedom to bargain collectively implies that we have employment

growth. In Kenya, we would like some assistance creating employment. As we know, job creation cannot be left to the Government alone. However, the private sector cannot be an engine of economic growth given the high costs of doing business.

Now, we may observe here that there is a tendency today, at least in that part of the world where I come from, to shift social costs to employers. This escalates the cost of doing business, particularly in my country. Therefore, I would like to call upon the ILO to come up with a guide that would assist both the Government and the social partners through a tripartite system to look at fundamental issues such as productivity or the promotion of productivity and the cost of doing business at the enterprise level, because I think that is where things make sense, with a view to creating more employment and more opportunities and with a view to maintaining a high level of employment. Redundancy and retrenchment would be last resort options.

Original French: Mr. SEGUIN (Government delegate, France)

First, let me say how much freedom of association and the right to collective bargaining are, for us, a core issue in the whole ongoing discussion on the social dimension of globalization. We believe these rights to be an essential component of good governance and, indeed, that was reiterated in the report of the World Commission on the Social Dimension of Globalization. These rights also enshrine the rights and responsibilities of the various parties involved in the real economy and they also enable us to reconcile the laws of the market and social objectives. We believe, therefore, that it should be a priority for our Organization to ensure that throughout the multilateral system we have proper recognition for the idea that social dialogue is an essential element of, and a determining factor in, good governance.

Second, and I believe very importantly, these rights are the foundation of all fundamental and social rights recognized by the ILO. In everything we do to promote recognition of these rights we are going to come up against our limits very quickly unless we use the lever of the social dialogue process in every country. The social components of structural adjustment plans and the strategic poverty reduction frameworks will be confronted by a purely financial logic if active involvement by the social partners is not integrated into the process.

Third, the exercise of these fundamental rights is the best way of responding to the problem of harmonizing the social conditions in which competition takes place. The 1998 ILO Declaration on Fundamental Principles and Rights at Work emphasizes, quite rightly, that fundamental principles and rights at work cannot be used as tools for carrying out disguised protectionism. Recognition of the right to collective bargaining does not in any way undermine the competitive advantage which countries with lower labour costs or a less developed social protection system have. But it does create, in the long term, the conditions for a gradual reduction in the disparities between countries and this as a result of tripartite dialogue and the active involvement of the social partners.

Now let me turn to the interesting issues raised in Chapter 3 of the Director-General's Report which relate to social dialogue at the global level. If, as the Report recalls, it would be premature to consider any true worldwide collective agreements – collective labour agreements regulating on a global scale

issues of working conditions and wages – it is interesting to note the signing of at least 27 international framework agreements, often based on the Declaration. These agreements, signed with major multinational companies or in very highly integrated sectors of the world economy, try particularly to specify conditions of adaptation to changing markets, guarantee the right to trade union representation, collective bargaining and joint mechanisms, among other things. I think we need to watch this developing situation closely and support and encourage it.

Finally, I would like to close by paying a warm tribute to the Committee on Freedom of Association. In a situation worldwide that is still precarious in many parts of the world this Committee has brought about improvements in the legislation of a number of countries. It has managed to bring an end to many of the abuses perpetrated against workers and employers and their representatives. It is a useful tool for improving social governance worldwide with its basis in the ILO. I believe it should be consolidated in the context in which globalization also means the globalization of opinion.

I would like to congratulate the Director-General and his team on the quality of this Report. France supports the objectives laid out therein and will do all it can to support the work the Office and the Turin Centre does to contribute to their realization.

Mr. FARSHORI (*Government delegate, Pakistan*)

Thank you very much for giving me the opportunity to comment on the Global Report. The Report discussed core issues including the right of association and collective bargaining which are extremely important in the wake of globalization. The overall picture depicted in the Report is encouraging but it identified certain areas in labour relationships at a tripartite level which need to be addressed. An overall assessment was made and challenges were identified in the context of the global economy. There is a need to promote fundamental rights, to advocate knowledge and to target uncovered and disorganized sectors of the economy.

We fully agree that without involving the most important stakeholder in the economic development, the workers, more visible improvement can be made in the industrial and economic development of the country. However, we are of the view that freedom of association and collective bargaining should be organized responsibly and regulated in accordance with the provisions of law. The important principle of understanding between employers and workers should be to enhance productivity and to share the fruits of productivity fairly.

The interests of workers and employers need to be harmonized. The impact of freedom of association and collective bargaining depends strongly on the context and on the environment in which they occur.

We agree with the observation that there is a need to build a dynamic labour market which is represented by three stakeholders – the workers, the employers and the government. However, we feel that this dynamic market should be able to perceive the social consequences of moving investment from the existing to the new production system.

The concept of the introduction of decent work to reduce poverty is not only new but the approach is also innovative. We fully agree that workers' interests will be protected if we prepare and implement decent work to reduce poverty. This is also part of

the Poverty Reduction Strategy Paper which Pakistan is committed to implement. We are committed to prepare such a programme and implement it after getting a consensus at a tripartite level.

I would like to draw your attention to the issue of the ratification of Conventions. The response to ratify Conventions needs improvement, a lot more is required. The non-ratification of Conventions affects the dynamics of the labour market and creates a distortion in the competitiveness of comparable economies.

The international labour agencies need to be more assertive with respect to the ratification of Conventions, especially those relating to social security and workers' welfare.

The Report highlights the group of workers facing obstacles in organizations like public sector employees, agricultural workers, workers within export processing zones, migrant workers and domestic workers. It also highlights the challenges of the informal economy. These issues are important and need to be addressed in a gradual manner with a destined road map.

I would also like to draw your attention to the need for comprehensive data relating to employers and workers to be available.

This is essential for organizing bargaining in the context of the global economy. Such details are either not available, or if information is available, is rather sketchy. The data will help in the exchange of information between employers and also among workers.

The level of unions and their performance can also be judged both at the enterprise level as well as at the sectoral level. With the success and failure of bargaining, labour productivity increases and a declining train of growth can well be realized in the global context.

The empirical research will provide an opportunity to arrive at a genuine core relationship between the development of bargaining institutions and productivity and, consequently, economic growth. At the same time, capacity building of the Government, as well as that of employers and workers, is necessary to ensure freedom of association and collective bargaining. This includes qualitative improvement when imparting knowledge to all the three stakeholders. Labour law reforms, improvement in dispute prevention and certain mechanism for information and awareness raising are to be attended to as a priority and any help given by the ILO is most important.

The importance of collective bargaining to determine wages and social benefit is the most transparent and effective method available in the fiscal market economy. In Pakistan a bilateral council of employers and workers has been established with the sole objective being to start partnerships for peace, productivity and prosperity. This has provided a forum to overcome the tense relationship between the workers and employers and to arrive at a consensus on major issues which require the support and approval of the Government. There are efforts to increase the membership of this association so that it increases and at some stage of time it can be transformed into an organized, legislative, duly-approved body providing important support and help to the Government.

To conclude I congratulate the ILO for preparing the Global Report under the follow-up to the ILO

Declaration on Fundamental Principles and Rights at Work.

Original Spanish: Mrs. ARANGO DE BUITRAGO (Government adviser and substitute delegate, Colombia)

We welcome the Global Report under the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work: a Declaration that was adopted by this house in 1998.

As regards my country, we have been making significant efforts to promote the Declaration. In March 2003, the first national forum took place on this issue, where workers' and employers' organizations came together with the Government, represented by the Vice-President of the Republic, and we had the opportunity to discuss a document prepared by the subregional office for the Andean countries at the request of the Government.

The ILO, through the Director of the subregional office, presented the main issues relating to the Declaration and its impact on strengthening freedom of association. At this forum, the Government made the commitment before the ILO and the social partners to hold regional seminars on a tripartite basis, to promote and disseminate the Declaration throughout the country.

It should be mentioned that this is part of the Government's strategy to promote, also at the regional and local level, the policy of respect for human rights, so that regional and local authorities, their social partners and communities themselves make commitments in this area and thereby create a national and local culture of respect of rights, which obviously include fundamental labour rights.

To date, we have carried out eight regional seminars, with seven more planned for this year. We hope to conclude this project by holding a second national forum, which will include the recommendations and conclusions of the regional forums.

Such activities would not be possible without the support of the ILO special technical cooperation programme for Colombia. Unfortunately, within a few months the resources of this programme will have run out. Therefore, it is necessary that the constituents who expressed their concern for the strengthening of freedom of association in Colombia, as well as the ILO, make the necessary effort to ensure the continuity of and increase the technical cooperation which the ILO has been providing in Colombia.

We would like to make some comments on certain statements made in the Report relating to Colombia.

The Government notes with concern two statements made in Box 2.1 on page 25 that we would like to clarify. First, it is said that a minority of the murders of trade unionists are "committed by armed opposition groups". Illegal groups of outlaws who attack the civilian population are not, and cannot be considered to be, opposition. They are terrorist groups funded by the drugs trade and are recognised as such by countries and groupings of countries.

Furthermore, and with regard to the status of the opposition in my country, I would like to quote the Vice-President of the Republic, from a speech he made recently: "This policy, of democratic security has also provided guarantees for parties of the opposition, for those who oppose the Government, and for social partners. Much remains to be done to overcome intolerance in our society and improve our political traditions. However, it is clear that de-

mocracy in Colombia is constantly getting stronger, becoming more pluralistic, broader and more inclusive. Violence is the greatest obstacle to further democratisation in Colombia. There is no justification or support for violence in Colombia. We Colombian people do not understand how groups that have no limits and are afraid of engaging in political dialogue can be justified as armed opposition. Acaso Lucho and Agelino Garzon, Sergio Fajardo, Antonio Navarro, Gustavo Petro, Wilson Borja and the many others who currently occupy public positions, are they not opposition?"

In addition to the above and in a tripartite spirit, which prevails in the ILO, our Government hopes that in future it will be informed and consulted on such statements before they are actually published, as well as on the statistics on human rights violations against trade unionists and union leaders, so that statistics are taken from the various State research organizations and that union sources are also used when drafting the Global Report under discussion.

Second, the previously mentioned Box 2.1 concludes by stating that the fate of the programme depends among other factors, on the "future conditions in the country and its prospects for finding peaceful solutions".

Our Government would like to understand this statement, not as a recommendation on how to formulate its policies on how to overcome the terrorist threat in its country, because this falls in its exclusive remit, but as a determining factor for the cooperation programme; such statements can only be acceptable by adopting this interpretation.

We are sure that it is crucial to overcome the situation of violence associated with drugs-related terrorism in the country which affects, amongst others, trade unionists and leaders, and other sectors of the population, such as judges, journalists, public prosecutors, medical officers, etc.

Indiscriminate violence against the civil population prompted Colombians to choose by an overwhelming majority the policy proposed by the then candidate Alvaro Uribe by electing him to be the President.

The popularity of the President today, after nearly two years in Government, is at 75 per cent mainly because of the results of that policy.

Today, we Colombians feel safer and more hopeful than ever before in the future of our nation.

I would like to say that in 2003, 40,000 public employees were not dismissed, as stated in the Report. We have previously explained the programme for restructuring the public authorities, and we have stated that this programme involves not filling vacant posts and the retirement of staff who will receive a pension.

In other words, after four years of Government, 40,000 people have ceased to work for the public authorities. Obviously, a number of those who left their jobs, did so as a result of restructuring.

However, I would also like to underline that included in the restructuring programme is the social protection programme which prevents mothers who are also the head of the family, disabled persons and those in line for early retirement from being affected by the restructuring programme; 14,120 individuals have benefited from this. We have also adopted measures for free training to enable former public employees to access other employment opportunities. These measures includes services such

as advice, occupational guidance, retraining and cover issues such as labour intervention and self-employment.

In conclusion, I would like again to reaffirm my Government's determination to promote the Declaration of Fundamental Principles and Rights at Work. Therefore, and as we stated within the Committee on the Application of Standards, we will be closely following the provisions adopted relating to the strengthening of the ILO special technical cooperation programme for Colombia.

Mr. SHENOY (*Government delegate, India*)

At the outset, let me convey our appreciation to the ILO for bringing out such a comprehensive document entitled *Organizing for social justice* on freedom of association and collective bargaining.

Collective bargaining is a rational democratic exercise wherein the accredited representatives of workers and management to discuss, negotiate and bargain on an equal footing with regard to all bargainable issues pertaining to all bargainable employees. Hence, collective bargaining is a method which should be available to the workers in all spheres.

We, in India, believe that it should also be available to agricultural and rural workers. That is why we have ratified the Right of Association (Agriculture) Convention, 1921 (No. 11), and the Rural Workers' Organisations Convention, 1975 (No. 141).

The Report rightly recognizes that it is very difficult to ensure collective bargaining in the absence of proper organizations of agricultural workers, migrant workers, domestic workers, workers in export processing zones and, especially, workers in the informal economy.

The world over, the number of workers in unions is falling. The first step forward should be to shore up membership of unions and the second is to ensure that union members are spread throughout the aforementioned sectors, especially in the informal economy. Only then, when we have a unionized workforce, will it be feasible and possible to increase the spread of the collective bargaining exercise. Globalization has resulted in increased competitiveness, casualization and contractualization, which increases productivity requirements. So apart from wages and the various elements of bargaining, productive bargaining will become a very important thing in the years to come.

Effective dispute settlement machinery is essential for ensuring industrial peace and harmony. Collective bargaining, conciliation and arbitration are very important. Only if these three machineries fail should one then resort to adjudication as a last resort. We, in our country, we have some difficulties especially because the organized workforce is only 8 per cent; 92 per cent work in the informal economy.

International efforts have been made to improve the ratification record. The ratification record is very high numerically but, considering the percentage of population of the workforce across the globe covered by this ratification record, it is not very high.

We have special difficulties in ratifying Conventions Nos. 87 and 98 because of certain technical issues.

Our government employees enjoy a lot of rights. Some of them perform sovereign functions. They

have their own staff council, joint consultative machinery and administrative tribunals. They have the highest level of job security which is enshrined in the Constitution of India itself.

We feel that our convictions and commitment to the principles of these core Conventions are evident in our political tradition, free society, free press and very strong and independent judiciary. Our Constitution guarantees freedom of association, freedom of organization, freedom of expression and all other forms of freedom that constitute a guarantee of the rights against exploitation and discrimination.

These rights are guaranteed under the Constitution as fundamental rights and therefore, there are guarantees against arbitrariness on the part of the executive and the legislator.

In conclusion, I would like to reaffirm my country's commitment to the principles of freedom of association and collective bargaining and our conviction to implement the spirit of these principles in the workplace in India.

Ms. TORSØE (*State Secretary, Ministry of Labour and Government Administration, Norway*)

Norway welcomes the Director-General's Report, *Organizing for social justice*. As the title of the Report indicates, social dialogue between democratic governments and workers' and employers' organizations is perhaps the most important precondition for achieving social justice.

In my opinion, it is no coincidence that so many of the richest countries in the world have long recognized freedom of association and the right to collective bargaining while so many countries, where people have been denied these fundamental rights, remain among the poorest.

Freedom of association is not only about social justice. The Report tells us that in some member States, serious threats to workers and employers seeking to organize, including killings, detention and violence, still persist.

The Report shows us that the ILO is moving toward universal ratification of the Freedom of Association and the Right to Organise Convention, 1948 (No. 87), and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98). The fact is, however, that about half of the world's workers and employers do not enjoy protection under Conventions Nos. 87 and 98, given that some of the largest countries, in terms of size and population, have not ratified these Conventions.

Some groups are facing particular difficulties in exercising their fundamental rights. Those working in agriculture and in export processing zones, migrant and domestic workers and those in the informal sector are facing a difficult situation even in countries that have already ratified these Conventions.

There is growing evidence that fundamental principles and rights at work have played an important part in improving economic development and productivity, management of enterprises and the functioning of the labour market.

In 2000, OECD found that countries which strengthen the observance of core labour standards can increase economic efficiency by raising the skill levels of the workforce and by creating an environment that encourages productivity, growth and innovation. In advocating the work of the ILO, it is therefore important to give real-life examples of employers and workers exercising their rights and

achieving results. Information should be gathered on specific cases of good practice in collective bargaining and dialogue that others will wish to imitate.

The ILO should also work closely on a tripartite basis with non-ratifying countries to seek the means to overcome obstacles to ratification. Labour legislation is the foundation of respect for freedom of association and the recognition of the right to collective bargaining. The ILO has a long experience in assisting member States with labour law reform. It is of the utmost important that the Organizations should have enough capacity in this field to be able to meet requests for assistance from member States.

The report of the World Commission on the Social Dimension of Globalization was discussed recently. The report demonstrates very clearly that we have a long way to go to give everybody a fair share of the benefits of globalization. We believe that one important step on that path is the development of good tripartite institutions and cooperation at national level.

In conclusion, Norway strongly supports a new updated plan of action in this area and we believe that the Director-General's Report, *Organizing for social justice*, includes a large number of proposals that will have a sound basis for the plan of action. As pointed out in the Report, however, sustainable change depends on the commitment of governments and social partners in each country and their ability to achieve a strong joint ownership of agreed courses of action. The aim must be the use of these fundamental rights as a foundation for democratic development.

Original German: Mrs. ENGELEN-KEFER (Workers' representative, Germany)

I think that the ILO has started along the right path by concerning itself more with the implementation of workers' fundamental rights. The right to freedom of association and collective bargaining, which occupies a key position is simply not possible to implement other labour rights and there can be no sustainable economic and social development. Globalization has rendered the work of the unions more difficult and more complicated. Unions need effective protection of their freedom and their ability to act. In the Report and in the contributions to the debate that we have heard today, we have heard very clearly that multiple violations of freedom of association are still taking place today, probably just as many as in the past.

I would like to raise one issue that is fundamental for us. For us, we believe that speed is of the es-

sence in ensuring that these rights are implemented in order to avoid discrimination against union activities. When cases come up in the Committee on Freedom of Association, we often see that the process is dragged out over five or seven years. Suffice it to say that when delays of that length take place, they severely constrain the right of freedom of association. We are also seeing new forms of discrimination in the implementation of freedom of association, and we have already heard today that many countries are preventing foreigners from obtaining union membership or there are model contracts which offer employers the opportunity to exclude certain workers from the application of wage agreements, and this is particularly true for large groups of workers in the public services, including in developed countries. Convention No. 98 provides for the right to collective bargaining. This does not mean the same as collective bargaining, but neither does it mean pay negotiations imposed by the Government.

I believe that the Report of the Director-General has been extremely insightful on this point, with regard to Bulgaria, Romania and Moldova, and there we have to make it clear that, according to Convention No. 98, freedom of association encompasses freedom and equality, equality on both sides, bargaining on an equal footing. That brings me to a very important point – the right to strike, which is a part of freedom of association. There are those who cast doubt upon this, who say that the right to strike is not explicitly mentioned in Convention No. 98. That is true, but not because the right to strike was not intended to be included in Convention No. 98 but rather because the detailed definition of the elements of freedom of association was left to the application of law. The legal precedents in the case law of the ILO have shown that the right to strike is an inalienable part of freedom of association. I think that we need to cooperate with member States in order to fully implement these two crucial Conventions of the ILO in various ways. Firstly, we require the support of member States in ensuring full implementation and inclusion of these workers' rights in all international organizations. We also need the member States to ensure that freedom of association underpins their bilateral activities and we also need individual governments to ensure the implementation of these fundamental labour rights on the domestic front.

(The Conference adjourned at 1.15 p.m.)

Eleventh sitting

Thursday, 10 June 2004, 3.15 p.m.

President: Mr. Attigbe, Mr. Ray Guevara

GLOBAL REPORT UNDER THE FOLLOW-UP TO THE ILO DECLARATION ON FUNDAMENTAL PRINCIPLES AND RIGHTS AT WORK: INTERACTIVE SITTING (CONT.)

Original French: The PRESIDENT (Mr. ATTIGBE)

We shall now resume our discussion of the Global Report; *Organizing for social justice*.

Mr. POTTER (*Employers' delegate, United States, speaking on behalf of the Workers' group*)

I thought I would just make a short statement about how I think we are doing.

First, I think the Governments overall have been much more concrete, in terms of telling us what they are doing, in terms of meeting their commitments under the Declaration, and that is to be commended. I counted four governments who basically talked in general terms, which is really not constructive.

There was one Government intervention that got into matters that are actually covered and addressed in other supervisory machinery in the ILO. We do not intend to look at the countries' situations in a case environment; it is more appropriate to have those discussions elsewhere and not here, to avoid the question of double scrutiny.

Sir Roy TROTMAN (*Workers' delegate, Barbados, speaking on behalf of the Workers' group*)

I support what Mr. Potter is saying, but I wish to suggest that it would be useful if those of you who have prepared texts could revise them and include in them something that would guide the Governing Body, and especially the Working Party that helps the Governing Body, in determining how we could improve in this area of the work of the ILO. So, what we are looking for, really, are suggestions and not merely recitals of what is being done domestically.

Mr. ANAND (*Employer' adviser, India*)

We have been discussing this Report since the morning, and the Office has raised certain points for discussion. We need an answer, but I would like to address this house on the last point. What should be the key item for the plan of action for the next four years to be submitted to the Governing Body in November 2004?

The document itself, *Organizing for social justice*, elegantly presents some exhaustively argued thought-provoking theses; yet if I look at the totality of the Report, it is obvious to me that we should be concerned about the validity of priorities for the future, as reflected in paragraph 394.

When I saw the Report several weeks ago, I started to have some doubts about the introductory chapter, paragraph 3, itself. I may be in a minority, but despite the position emphatically defended by my friends opposite, I am indeed worried about the fact that the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), are stressed as positive factors making for sound economic development in paragraph 3. While I admit that both Conventions are essential for democratic freedom and human dignity they do not suffice to serve the end of sustainable social justice. These Conventions are only a means to an end and, not the end in itself. Sound economic development on its own also spurs social justice, which is the end purpose, if we look at the text of the Declaration as a whole. In a number of the countries included in table 3.5 and Annex 2, economic development has taken place, notably in the United States, India and many others, notwithstanding the non-ratification of the aforementioned Conventions. Therefore, I submit that the converse is also true. Economic growth itself leads to development laying the foundations of social justice. In my view, there is scope for reconsidering the priorities in technical cooperation, which is the key purpose of this four-yearly review. We have the annual review of the four components, but we are concerned overall as to the future of technical cooperation. The ILO has a research institute. I think in fairness that it should undertake a cost-benefit analysis of the annual inputs and outputs of resources invested in this task during the half-century since these two Conventions were adopted. This is an objective way of examining what is, admittedly a minority argument, but it deserves to be examined.

I submit that Part I seeks to promote the ILO Constitution – if you look at the Declaration text, Part I seeks to promote the ILO Constitution buttressed by the Declaration of Philadelphia with its dictum which is again repeated by the Director-General, “poverty anywhere is a threat to prosperity everywhere”. Despite the large-scale investment of financial and human resources to promote the ratification of these two Conventions, poverty still persists in substantial areas of the world. Four billion persons are still in the lowest level of the pyramid of world income, i.e. below US\$1,500 a year.

Part III of the Declaration in the Annex states the purpose and modalities of this four-yearly review, namely to serve as a basis for assessing the effectiveness of assistance provided and for determining priority through action taken for technical coopera-

tion. Under Part IV, subparagraph (2), of the Annex, this Conference is now required to assess whether it has adequately fulfilled the overall purpose articulated in Part I, in other words, to promote the ILO Constitution and Declaration of Philadelphia with the dictum “poverty anywhere is a threat to prosperity everywhere”.

The poverty eradication obligations assumed by the ILO, because of their political, social and economic repercussions, have now been also assumed by the United Nations system as a whole. The report of the United Nations Commission on the Private Sector and Development entitled *Unleashing entrepreneurship: Making business work for the poor* again appeals to the conscience of the business world to serve the masses and the poor. In my personal opinion, the business world consists not only of employers, but also of trade union leaders. The forthcoming World Bank Development Report (2005) will probably focus on the same issue of people and the masses and their economic betterment. Entrepreneurship is now the new flavour in the mouth of the entire multilateral system, but as far as human infrastructure and an appropriate work culture for the future are concerned, the priorities set out in paragraph 394, which is very weakly and obliquely worded, are not on any roadmap in this report. This reflects a lackadaisical attitude, as if the world and mankind were static. These priorities outlined in the document will not promote the integrated aims and objectives of the Declaration.

I finally submit that skill development, entrepreneurship, constructive work culture, mainstreaming of informal economics, job upgrading in the agriculture and manufacturing sectors, advocacy and services through the employment sector and sponsored pilot projects in the underdeveloped world need to be put at that top of the list of challenges and priorities, while basic, further and retraining programmes run by the Turin International Training Centre are also a necessity.

Speaking for the 4 billion people who are in the lowest level of the pyramid described in the report on unleashing entrepreneurship, I request the Director-General and this house to initiate action with vision and courage, without giving way to doubts, and to make history for the ILO in the twenty-first century through proper prioritization. The social partners are with you. Unless this review gives top priority to all the activities in the enterprise and employment sector, the review will be of little consolation to future generations, much less so to the youth of tomorrow.

I am sorry I have taken so much time, from your point of view, but I wanted to make my argument because – even though I may be in the minority – there is room for rethinking the priorities made out in paragraph 394.

Mr. BUWALDA (*Government delegate, New Zealand*)

I would like to congratulate the ILO for this Global Report *Organizing for social justice*. Four years after discussing the first Global Report entitled *Your voice at work* it is heartening to read in this year's Report that we are seeing a generally positive trend in freedom of association and collective bargaining throughout the world.

We also note, however, that this is offset by serious problems that remain in this area. The New Zealand Government commends the ILO for the active role it has taken over the past four years in

ensuring that the principles of association and collective bargaining are promoted to its constituents.

We also appreciate the important point made in paragraph 275 of the Report that, while technical cooperation can demonstrate positive outcomes and help build the capacity of a small number of actors, sustainable change depends on the commitment of governments and their social partners in each country. In other words, organizing for social justice is a process of partnership, not one of imposing change from the top. My Government strongly supports this principle.

New Zealand is profiled in the Report as a country where renewed commitment to collective bargaining through the Employment Relations Act is part of the promotion of productive employment relationships.

My Government is strongly committed to ensuring that collective bargaining is protected through our laws, which in turn remain responsive to changing requirements in society.

The Government recently introduced the Employment Relations Law Reform Bill which builds on the foundations laid by the Employment Relations Act four years ago.

This new Bill aims to strengthen the Act in order to better achieve its key objectives of promoting good faith, collective bargaining and the effective resolution of employment relationship problems. The Bill provides disincentives for undermining and avoiding collective bargaining and it provides more effective ways of resolving employment relationship problems.

The Global Report signals a renewed commitment by the ILO to focus its support on those sectors where workers face particular difficulties in organizing. New Zealand supports this strategy, however, we would not like to see the ILO restrict itself only to the six sectors defined in the Report.

Over the last year New Zealand has signalled its commitment to good faith and collective bargaining internationally by ratifying ILO Right to Organise and Collective Bargaining Convention, 1949 (No. 98). We have also sought to work with the ILO and the south-east Asia-Pacific subregion to promote freedom of association and collective bargaining as an aspect of decent work and last year hosted a subregional tripartite forum on decent work that promoted dialogue between social partners across the region.

We applaud the ILO South-East Asia and Pacific Office for its commitment to support governments and social partners as they develop tripartite plans of action to achieve decent work and we look forward to the presentation of these plans at the next Asia-Pacific Regional Meeting.

We would recommend decent work action plans to other ILO member States as a useful tool to achieve decent work and to ensure the continuous dynamic relationships of government, employer and worker organizations and labour law, policy and practice.

Looking ahead, the New Zealand Government agrees that there is much to be done internationally to ensure freedom of association and collective bargaining are accessible to all workers and to stop, as a priority, the murder of trade unionists.

We think that the ratification of Conventions Nos. 87 and 98 are only part of a process where the actual goal is to implement the right to freedom of association and collective bargaining in each state.

As the Report notes in paragraph 5, in some instances countries have ratified ILO Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and Right to Organise and Collective Bargaining Convention, 1949 (No. 98), and then gone no further to comply. Indeed, the Report notes that in some cases situations have become more precarious.

Therefore, the goal of future ILO action should be to support implementation of the principles outlined in the Declaration and obligations under the fundamental Conventions approaching ratification as part of this process, rather than the end result.

In conclusion, we look forward to working in partnership with the ILO and its constituents to ensure that all people in the world of work have the right to freedom of association and collective bargaining.

Ms. SSENABULYA (*Employers' delegate, Uganda*)

I am privileged in having the opportunity to share the experience of Ugandan employers on the Global Report, *Organizing for social justice*, under the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work.

May I at the outset congratulate the Director-General and his team for their commendable work, as evidenced in the Report we are discussing today.

Technical support is very important in the promotion of the principles enshrined in the Declaration and has borne some fruit in Uganda. My federation was honoured to benefit from this technical support through the ILO project on Strengthening Labour Relations in East Africa which has been going on since 2001. We are grateful to the ILO and the United States Government for their support. Through that technical support, the federation has become more visible and better equipped to render services to its members. Many of our member organizations were also strengthened to improve employment relations at enterprised level. The results have been remarkable. There has been a realization by many employers of the need to associate and, as a result, quite a number have become members of the federation. There has equally been an appreciation by our members, employers, of the need for them to have a voice at the local level and, to this effect, six employers' district committees have been formed.

A strong secretariat with better facilities to effectively and efficiently support members was able to help the Uganda Private Securities Association to conclude a collective agreement with the Amalgamated Transport and General Workers' Union, covering 15,000 workers. It has taken a number of years for these two to complete the agreement but with the assistance of our organization they were able to do that in two months. Similarly, the Uganda Tea Association and the National Union of Agricultural Workers were also given professional support by the federation and were able to conclude a collective agreement within a short time covering 30,000 workers.

It is quite important to note that there are a number of innovative ways in which the Office can promote the principles outlined in the Declaration, besides the use of law. As a federation, three years ago we started a competition for employers which is based on recognizing those organizations that have the best human resource management practices and who comply with the law. This exercise has been

appreciated with a lot of enthusiasm, with many employers participating and quite a number taking their own initiative to improve working conditions at their places of work.

There are a number of lessons to learn from this. One of them is that employers who are doing well need to be recognized, rather than always putting the stress on injustices and condemning employers as exploiters. Another lesson which we have learnt through this exercise is the use of the mass media to publicize the principles contained in the Declaration, and to educate the general public, workers and employers. We encourage the Office to take a leaf out of East Africa's book so that more publicity is given to these principles using the mass media.

There are a number of challenges which we have been confronting. One of the biggest challenges is that the majority of the employers employ between one and 20 workers and most of these still lie outside the ambit of the federation, meaning that both the employers and the workers they are employing are not benefiting from the principles in the Declaration. We therefore appeal to the ILO to extend more support to see how these employers and workers who are not yet on board can be brought on board. I also equally call upon the Office to intensify its programmes on mass media which can go a long way to educating a very large number of people.

Original Spanish: Mr. VILLAVICENCIO RIOS (*Government delegate, Peru*)

I would like to begin this short statement by highlighting the importance of the Report which we have before us. It covers many of the core issues surrounding the complex right to freedom of association and the effective recognition of the right to collective bargaining. There is a three-way split, as far as the Declaration is concerned, between the rights encompassed within the broad concept of trade union rights, according to the monitoring mechanisms of the ILO. It seems to me that it is important to mention this, because this way, we will be able to approach each of these issues with the appropriate logic and coherence.

I would like to take advantage of the time available to me to raise one of the subjects which does not appear to have been addressed in the Report that we have before us, namely that of the protection of freedom of association.

All of us in the world of labour relations know perfectly well that the protection of basic rights does not entail only negative aspects, in other words, removing the obstacles which exist in States, but it also has a positive dimension that affects the obligations of all those involved in exercising these rights, so that these rights can really become effective.

In the case of labour rights and in particular freedom of association, this issue is becoming all the more necessary because everyone knows that, without a set of normative and procedural mechanisms to protect freedom of association, then this right is simply devoid of all value. It is widely recognized that the effective protection of the freedom of association is a prerequisite for the real enjoyment of this right. In this sense, I have noted the absence in the Report of even a regional analysis of the various mechanisms that are being implemented in countries so that these rights can become a tangible reality and are no longer merely the words used in the

ILO Conventions, in universal declarations and in the covenants that at one point we believed were part of the legal heritage of humankind.

In this context, I should like to suggest that, in the action plan that is to be implemented over the next four years, before we proceed any further with our deliberations on and appraisals of freedom of association, it would be a good idea to evaluate all of the mechanisms, not just the normative ones or the ones that provide terms and guarantees, but also the procedural mechanisms using thorough and appropriate procedures that will enable us to evaluate the true extent to which this right is being enjoyed in various environments and in different countries.

We consider it important therefore that any action plan should include elements that allow for specific reference to be made to what is taking place in reality. This goes way beyond what is contained in the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), the Workers' Representatives Convention, 1971 (No. 135), the Labour Relations (Public Service) Convention, 1978 (No. 151), and the Collective Bargaining Convention, 1981 (No. 154), and involves understanding what governments are really doing.

It is necessary, therefore, that the Report itself should not just be an analysis of what governments are doing but also of the practices of employers. We know that, of Conventions Nos. 87 and 98, the former is more directed towards the obligations of States and the latter is aimed more at the obligations of employers. Both are a package, if you like. They are both absolutely essential for the right to freedom of association, which is why the action plan must cover all of these elements. We need to have an idea of how not only States but also employers' organizations are implementing their international commitments. In order to achieve this, the jurisprudence of the control mechanisms, particularly that of the Committee on Freedom of Association, is extremely valuable in the sense that much has already been done to develop this issue. I think it should be used directly in conducting these analyses.

*Original Spanish: Mr. ECHAVARRIA SALDARRIAGA
(Employer' adviser and substitute delegate, Colombia)*

This is a very good opportunity for employers in Colombia to present the positive steps taken to develop our country in the area of civil liberties.

Colombia is currently going through a period of internal armed conflict, making the development of basic rights difficult in many ways. However, the ILO can be extremely satisfied with the technical cooperation programme in our country, because obvious results have been achieved. I will report very briefly on this.

First of all, a number of social dialogue meetings have been held, as an alternative solution to labour conflicts, to protect union leaders, and to defend the human rights of workers; many meetings have been held all around the country where employers and workers have been working with the Government.

Action has also been taken regarding child labour, particularly recently, with the training of judges and public prosecutors who are called upon to investigate and meet with the perpetrators of these crimes against all sectors of society, particularly against workers. This programme which, as the Government said this morning, is using up our resources

and therefore requires considerable support from the international community.

There are both political and economic indicators. In regard to the political, there is better governance in the country at the moment. The institutions have been strengthened through more open democracy. Two representatives of the Colombian trade union movement have recently been elected into very important public posts in the country. Similarly, there has been greater state presence throughout Colombia. The police and the army are present throughout the country, which is the least a State should do in order to be able to ensure the security of its citizens. There have also been a number of elements which have reduced violence, not just against union members but against the whole population. This has generated a considerable degree of confidence throughout the country.

Also on the subject of politics, I would like to say that there has been a process to reintegrate illegal armed groups. Negotiations are taking place with the United Self-Defence Forces of Colombia who have also attacked Colombian institutions. Recently, the possibility has arisen of the Mexican Government assisting in negotiations with the National Liberation Army, the second largest guerrilla group in the country. It should be noted the United States, the European Union and the Japanese Government have declared both the self-defence groups and the guerrilla groups in Colombia to be terrorist movements. The international community, in general, rejects this, as do the majority of Colombians.

Structural reforms are being implemented by the State to develop public expenditure, one of the big problems which we have. It is still 2.8 per cent of GDP. Employers have recently made new tax contributions to help the State. Income tax rose by 10 percentage points to the current level of 38.5 per cent. Wealth tax has been introduced at 6 per cent to contribute to secure democracy and State presence throughout the country.

These indicators, have generated confidence amongst Colombian employers and thus investment; both national and foreign, has increased over the last year by 30 per cent. Our own investigators have revealed that over the last quarter, production has grown by 8.7 per cent and sales by 7 per cent. In other words, we have prospects of growth of around 5 per cent for this year. It was 4 per cent last year and in previous years did not even reach 1.5 per cent. So this increasing economic growth has provided the opportunity to create 1.2 million additional jobs in the country, which is a positive contribution to economic and social advancement.

I think that this brief report allows me to say that the ILO should be extremely proud of its Cooperation Programme which has given positive results and consequently should be strengthened. It is in this way that we will be able to solve the domestic conflict in Colombia. The results are not perfect but they are on the right track.

To conclude, I would just like to mention that behind all this, the international community is responsible because drug trafficking, our main problem, is a source of finance for all types of illegal armed groups. Therefore, the international community should help us to stamp out this problem, which is a problem for humanity as a whole and not just for Colombians.

On behalf of the Austrian Workers' delegation, and particularly the Austrian Trade Union Federation, and our President, I would like to express our thanks to Director-General Juan Somavia and his staff for the commitment they have demonstrated. Through the initiative of the creation of the World Commission for the Social Dimension of Globalization as well as the production of the Global Report under the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work, they have taken up the tremendous challenge that the process of globalization presents to industrial relations and to the social systems and all societies, both in North and South.

I would like to make three comments as regards the Global Report. First of all, even though there have been improvements in certain areas, we still see, in many countries, major restrictions as regards freedom of association.

The Global Report quite rightly draws attention to the fact that people continue to lose their lives and their freedom for attempting to organize and defend collectively their fundamental rights.

For example, we see that in Colombia trade union members and activists in the social movement are murdered by death squads, and there is hardly any improvement to be seen according to the information we have from trade unionists.

Then we look at the situation in Myanmar where vast numbers of civilian members of the population are taken and used for forced labour.

And in Belarus we see that the right to organize has been practically reduced to zero. That is just to mention one or two examples.

As Austrian trade unionists and workers, we would like to give our support to the efforts of the ILO to ensure the full application of Conventions that have been signed, especially those relating to freedom of association, forced labour and equal rights, through discussions with those in positions of responsibility and through fact-finding missions as well as through public criticism.

We also think that it is perfectly legitimate for the International Labour Organization to call upon the international community as a whole to take steps against those States that violate continually human rights and trade union rights on a very broad scale.

The example of South Africa, whose democracy is ten years old this year, shows how effective such a focused commitment on behalf of the ILO can be.

In many cases – and the Report also refers to this – we see increasing restrictions imposed on the right to organize, resulting from the pressures of globalization. We see governments turn away from social dialogue in order to impose economic and social policies demanded by multinational enterprises, international financial institutions, and anti-social political advisers.

In respect of this, we see that the Global Report quite rightly draws attention to the fact that a functioning social dialogue, a practical one, linked to high social and employment standards, represents an important element for ensuring sustainable development. Governments which are interested in long-term social development are therefore well advised to counter unfavourable world economic conditions with a national consensus in the area of economic and social policy issues.

And thirdly, with regard to the challenge of globalization, we believe it is essential that the International Labour Organization, as steward of the fundamental global and social rights reflected in a number of different Conventions, should both be strengthened institutionally and politically and this, of course, affects both the question of standard-setting activities which must not be abandoned and also that of monitoring adopted standards.

The International Labour Organization must also be strengthened in relation to the international financial and economic institutions. There are major challenges facing the trade unions and, in general, organizations of the socially weaker groups in the population. We see particularly that organizations of women and in the agricultural sector need to create a stronger social dimension. We do not want to see a world order where the framework for social development is dictated by the unfettered demands of the free market – that is to say, the profit interests of multinational enterprises from the countries of the North. On the contrary, we strive for a society where absolute respect for human and trade union rights is taken as a first principle and where the activities and structures of the economic world are subordinated to justice and solidarity. These priorities, which are essential for sustainable development, must therefore be taken into consideration in the trade negotiations and financial agreements which are presently being negotiated in the context of other international organizations. Here we believe that we have the necessary basis for the implementation of an action plan on freedom of association and collective bargaining.

Mr. MWAKWERE (*Minister for Labour and Human Resource Development, Kenya*)

I thank the President most sincerely for giving me the floor on behalf of the Kenya Government.

We welcome the discussions on this year's Global Report entitled *Organizing for social justice*, as part of the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work.

The Kenyan delegation notes that while significant progress has been made in the acceptance of the principles of freedom of association and the right to collective bargaining, the Report acknowledges that serious problems remain. It further indicates that violations of the freedom of association rights of both employers and workers persist in different forms, including murder, violence, detention and refusal to allow organizations the legal right to exist and function.

The Report further indicates that about half of the world's workers and employers still do not enjoy protection under 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).

It singles out groups of workers who still face serious obstacles in achieving freedom of association and effective recognition of the right to organize. Such vulnerable groups include public sector workers, agricultural workers, workers in the export processing zones, migrant workers, domestic workers and informal sector workers, the majority of whom are women.

It is in this respect that the Kenyan Government agrees that "if freedom of association is not respected and promoted, there can be no collective

bargaining or social dialogue” and hence the theme for our discussion – *Organizing for social justice*.

At this juncture, please allow me to take this opportunity to reaffirm that in Kenya today, the principle of freedom of association and the effective recognition of the right to collective bargaining is fully recognized and promoted by the Government. The unfortunate incident mentioned in paragraph 88 of the Report concerning the illegal arrests of the Chairperson of the Federation of Kenyan Employers, is an incident the like of which the present Government will never allow to occur.

The Kenyan Government’s declared policy has always been to encourage the formation of strong, independent and financially viable employers’, as well as workers’ organizations. The Government of Kenya is satisfied that both the Federation of Kenyan Employers and the Central Organization of Trade Unions are well organized and competent enough to enter into responsible and conclusive collective bargaining on terms and conditions of employment.

My delegation is pleased to note that the present Global Report acknowledges that the Kenyan Government has allowed the establishment of a union for civil servants to cater for the interests of public sector workers in general. Allow me to reiterate that Kenya firmly believes that respect for freedom of association and the recognition of the right to collective bargaining has a very crucial role to play in achieving the ILO’ Decent Work Agenda for all in a globalizing world economy.

The Kenyan Government is therefore committed to the provision of decent work for all workers through the promotion of the ILO’s labour standards. In this respect, Kenya has so far ratified and fully implemented a total of 49 ILO Conventions, which include seven out of the eight internationally recognized core labour standards.

Please allow me to express the Kenyan Government’s appreciation to the ILO for the technical assistance extended in the recently completed review of six core chapters of our labour laws, with the aim of ensuring harmony between our domestic legislation and the various international labour Conventions that we have already ratified. These new laws will soon become operational and will fully address, among other issues, freedom of association for all workers, including export processing zone workers, casual employment, enhanced maternity protection, equality of treatment between genders, sexual harassment, and a strengthened National Labour Court.

In order to enhance freedom of association and to realize the goal of organizing for social justice, the Kenyan delegation firmly believes that the following challenges will need to be addressed:

One – the universal ratification and implementation of Conventions (Nos. 87 and 98) by all ILO member States.

Two – the facilitation of the enjoyment of freedom by various vulnerable groups, such as public sector workers, agriculture workers, export processing zone workers, migrant workers and informal sector workers.

Three – the need for the ILO to allocate sufficient regular budget resources for the effective implementation of the various freedom of association projects under the Declaration.

Four – the need for the ILO to deepen its knowledge base, as well as to strengthen its advisory, advocacy and awareness activities aimed at promoting

the two fundamental Conventions on freedom of association.

Finally, Kenya endorses the view that respect for these fundamental principles and rights at work is good for business, for labour, for governments and for civil society, both domestically and internationally.

Mr. SALMENPERÄ (*Government delegate, Finland*)

In response to the Employer Vice-President’s plea on the performance of individual countries as regards the right to organize and the right to collective bargaining, I must say, against the dictates of modesty, that Finland is doing rather well. The rate of trade union membership is among the highest in the world, and so is the coverage of collective bargaining. The same applies to our rating of in terms of competitiveness.

This is not to say that there is no room for improvement. Coming back to my original text, let me start by congratulating the Director-General and his staff for a Report that once again, in an expert manner, sheds light on the application of one of the core labour rights.

If we were to rank core labour rights in order of importance, we would have – or at least should have – come up with the one now under discussion in the first place. The right to organize clearly forms the groundwork on which the fair distribution of prosperity created by work and decent work is built. It is therefore also the key to management of globalization along equitable lines. It is easy to understand then that fair globalization has a long way to go, as the Report points out that half of the world’s workers still are not covered by the protection afforded by ratification of the core Conventions – 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).

Although developments in this respect seem to be encouraging, the overall situation is still a cause for deep concern. The Report also amply demonstrates how practical implementation of the right to organize and to bargain collectively enhances productivity and competitiveness, rather than posing a threat in that regard. As we are speaking of fundamental rights, this cannot of course be used as a real argument for the promotion of these rights which, as basic human rights, do not need such secondary justifications. It is merely intended to point out that fears in this regard are unfounded and should not be seen as obstacles to policies that promote the advancement of these basic rights.

The Report gives us ample guidance on the need for future work to promote the fundamental labour rights related to freedom of association and collective bargaining. My Government broadly supports the findings and recommendations of the Report in this regard.

We would specifically stress the need to study how the principle of freedom of association could be promoted in the technical cooperation projects of other multilateral agencies, as is suggested in paragraph 383. As to the question of data collection, my Government recognizes the difficulties. However, it would be important to improve and update worldwide data on the coverage of collective bargaining, as this information would indicate the status and measure success in the practical implementation of freedom of association.

First of all, on behalf of the Committee on Freedom of Association of the Arab Labour Organization, and on behalf of the Government delegation of Lebanon, I would like to thank the Director-General of the ILO for the Global Report which has been submitted to us, *Organizing for social justice*, a report which gives us a general idea of the situation as regards freedom of association throughout the world.

We believe that the concept of freedom of association flows from the whole concepts of democracy and human rights, which underscore the need to guarantee freedom of expression and freedom of association. We would also like to emphasize that the promotion of these rights and of economic, social, cultural and democratic rights, requires the promotion of freedom of expression and freedom of association, because the future of humanity depends on democratic progress.

Freedom of association has to be adapted to the higher interests of the State and so we have to modernize the State in the interests of its citizens.

As regards references to a number of Arab countries in the Report, more particularly as regards freedom of association in these countries and the process of democratization, we would like to note what was indicated in the Report and we would like to add that the political will of the majority of Arab States is moving towards a greater degree of democracy and freedom of association. I think we should pay homage to the International Confederation of Arab Trade Unions, which has played a primary role in the Arab Labour Organization, both with regard to the political follow-up in relation to the relevant Arab governments and as a result of pressure exercised in the context of complaints which have been filed.

What we can say is that there is an increased awareness of the importance of freedom of association and that this will become increasingly important. However, it should also be emphasized that wars and conflicts in the Arab world, particularly the occupation by Israel of the Arab territories, have hampered the process of economic and social development and delayed the development of democracy in our countries.

As regards technical cooperation, we would like to suggest that the ILO intensify its training activities in the field of standards. We have had some experience in this area in connection with the Turin Centre, because the standards activity is more concerned than the political world by the promotion of freedom of association and related principles. Judges preside over labour courts and are concerned in relation to the settlement of certain industrial disputes. The governments consult judges before adopting a decree or an administrative decision relating to freedom of association or collective bargaining.

Administrative judges look closely at the international Conventions and Recommendations before they are ratified and, consequently, it would be appropriate to strengthen the role of the ILO as regards the training of judges in various countries.

In conclusion, I would like to underscore the fact that freedom of association is guaranteed in my country by the Constitution and legislation and we very much hope that it will be developed further.

On behalf of the Workers' delegation of Pakistan, one of the developing countries on the Asian continent, we share the feeling of deep appreciation for the Report published by the Director-General: *Organizing for social justice*.

We also endorse the remarks made by our distinguished spokesperson, brother Trotman, and also my other colleague, highlighting the various problems which are being faced by the workers in exercising the fundamental rights of freedom of association and collective bargaining.

We believe that these rights are universal in nature and applicable to all counties – north, south, east and west – and to all workers. We also appreciate the support expressed by the various representatives of governments and employers for respect of these rights and to see some positive development in this regard in the Middle East and Gulf countries, and we hope that legislation will be brought into conformity with the principles concerning the fundamental rights.

The Report highlights that some of the major industrial States have not ratified the fundamental Conventions and we would rightly expect those States to ratify the fundamental Conventions to demonstrate their political will and commitment to these basic principles.

The Report showed that there were 142 ratifications of Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and 154 ratifications of the Right to Organise and Collective Bargaining Convention, 1949 (No. 98). But there is a great gap between ratification and implementation. We see every year the report of the Committee on the Application of Standards. It indicates the situation in almost all those countries that have ratified the Convention. There is a big gap between ratification and implementation both in terms of legislation and in terms of the difficulties encountered by the workers in exercising these rights – victimization, cases of murder and persistent harassment and arrests. This Committee is the only Conference committee able to tackle these countries that fall short in their implementation measures. We rightly expect the countries that have ratified the Convention to be guided by the Report and to try to bring their legislation into conformity with their international obligations, arising as a result of their ratification of the Convention, to enable workers to exercise these rights.

I must also point out, coming from a developing country, the Report rightly highlights that whereas 1.33 billion people were engaged in agriculture worldwide in 2001, the number dependent on the sector was nearly 2.58 billion, or 42 percent of the world's population. About 70 percent of the world's child labour occurs in farming. These countries need not only to be able to organize to regulate their problems and to improve their social and economic life, but also to call on international involvement because they are the poorest of the poor.

Similarly, in the globalization of the economy, we see workers in export processing zones denied those rights. This needs to be rectified, as it was in the formal sector. In Asia, 65 per cent of workers in non-agricultural employment are in the informal sector. Workers in export processing zones total 33 million, with 30 million in China alone. There are over 80 million persons today working in countries

other than their own. Source countries and host countries need to work together to find solutions to the problem of this category of workers, and to create relevant policies to do so.

We would also appreciate that the tripartism system, at the international level should be strengthened at the national level through the participation of workers' and employers' organizations and governments.

In Pakistan, we have ratified six of the seven core Conventions, but the legislation that was promulgated in 2002 is still retrogressive and denies some of the basic principles of these Conventions. We have submitted a complaint to the Committee on Freedom of Association, Case No. 2299, wherein the Government was requested to amend the legislation. We are pressing the Government to amend the legislation and we ask, through this forum, that the Government fulfil their obligation to comply with the Committee's recommendations.

May I also point out that deregulation and restructuring have posed a great problem and that workers are losing their jobs. In this context, we would expect that ILO and ACTRAV to be more active in their objective to improve social dialogue in the frame work of InFocus programme, in order to enhance employment, social protection, international living standards and the capacity-building of the social partners, which would lead to improvements in acquiring skills and knowledge of workers and promote social justice through decent work.

We certainly support the measures taken and the action plan, as laid down in the Report, in particular in the area education.

Lastly, I must admit that the concept of decent work can only be achieved through both national and international action and democracy as an example of developing knowledge and the transfer of knowledge, research and technology. Decent work should be a global goal and an objective of the multilateral system. The major political objective of all countries and multilateral organizations should be to find a tentative solution to this critical problem. We fully support the remarks which have been highlighted in the Report on the globalization of the economy and the need for a social dimension in globalization.

Mr. ANDERSON (*Employers' adviser and substitute delegate, Australia*)

In entering this debate, I acknowledge the presence of the trade union delegates from around the world sitting opposite, some of whom operate, as we have heard, in environments where there is denial of some of the freedoms that we in countries like Australia take for granted.

This debate gives the Australian employers an opportunity not only to welcome the release of the Global Report, but also to reaffirm our support for the ILO Declaration on Fundamental Principles and Rights at Work adopted in 1998. The Global Report is both challenging and, in part, contentious. That is the way it should be. There are a number of findings in the Global Report of particular interest to Australian employers. The finding that there is a generally positive trend and yet that problems still remain. Further, the finding that there is a need to establish for each country the optimal mix between what is negotiated centrally and what is more appropriate for bargaining at a local level. Further, the finding that there are deficiencies in data and information

about the coverage of trade unions and employer organizations at a global level, and further, the finding – and I think this is a very important finding – that there are considerable differences across countries, and even within countries, in relation to the adoption of collective bargaining and the way in which the Declaration is implemented.

Australian employers have a long tradition of recognition of the right to both freedom of association and collective bargaining, and there are well-established mechanisms for the enforcement of those rights. In relation to collective bargaining, there has been a very high growth of collective agreements, particularly over the past 14 years, in Australia, in both the public and private sector, and yet there is a need to derive more enterprise outcomes.

I have two points for clarification, though. There is a need for collective bargaining, if it is to succeed, to be subject to the attitudes of the parties and participants. Collective bargaining is dependent on those attitudes. Further, collective bargaining in itself is not a panacea. It would be wrong to take an exclusive or an unreal view of collective bargaining and whether it is appropriate in all circumstances. The key to the Declaration is the right to recognize in an effective way the right to collective bargaining and, therefore, where collective bargaining does fail – and it sometimes does fail – there need to be alternative structures within the concept of freedom of association to ensure that basic rights are exercised.

In relation to freedom of association, the Report quite rightly points out that freedom of association has historically been linked with freedom of expression, freedom of the media, freedom of assembly and universal suffrage. I would add that there is a further freedom that is critical: the freedom to contract, for without the freedom to contract there is no real freedom to associate. That is perhaps a debate for another day.

We have in Australia a very active trade union structure and a very active structure of employer organizations. I note that the Report does refer to deficiencies in data, and perhaps I could assist our discussion by making reference to some data that has recently emerged from research conducted in Australia as a result of a survey of workers by the Australian body that is responsible for the protection and promotion of freedom of association. That recent research indicated that 92 per cent of employee respondents agreed that union membership was left up to the individual to determine and that only 3 per cent of union members felt they had been threatened by their current employer in their earlier periods of employment in order to force them to join or remain a member of a union. Only 1 per cent of employees reported that they had been threatened by their current employer when they started work to prevent them from joining or making them resign from a union. Overall, 83 per cent of employees agreed that the union membership decision was respected by their employer, and a similar proportion of respondents agreed with the statement that the choice to be in a union is respected by the union in the workplace. I think that these conclusions are very consistent with the theme of the Report. They are trends in the right direction, although in some areas there are still problems that remain.

The challenges before us can, I think, be summarized in these terms: it is critical that we maintain a

positive trend. It is equally important that our governments and those of us who are participants in our jurisdictions seek to remedy the problem areas where they exist.

Further – and I think this is a matter which both this Organization and its stakeholders can take on board – there is a need to make both freedom of association and collective bargaining adaptable to local circumstances and economic realities. If we can achieve these improved outcomes, then the rights of employees will be protected and employers will see value in a collective organization of employees, we will achieve outcomes consistent with economic outcomes and, after all is said and done – and plenty has been said on this today – the combination of economic and social outcomes is what the underlying purpose of these declarations is about.

Mr. RICHARDS (*Government delegate, United Kingdom*)

First of all, the United Kingdom would like to welcome the Global Report, as a lot of hard work has gone into producing it and we thank the Office and indeed all those who have contributed. As all of us know, the fundamental rights of freedom of association and collective bargaining have been enshrined in the ILO Constitution since 1919.

It is important that these fundamental principles should continue to remain a focus of international attention. With regard to the ILO's objectives, the universal ratification and of course implementation of the Freedom of Association and the Right to Organise Convention, 1948 (No. 87), and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), is commendable and has the full support of the United Kingdom. The United Kingdom is a signatory to both Conventions. Indeed, the United Kingdom was among the first ILO member States to ratify them over 50 years ago.

Today, I want to speak very briefly about recent developments in the United Kingdom in relation to the aims of the Conventions. Over the last four years or so, in the United Kingdom, there have been a number of important developments concerning trade union legislation many of which derive from the Employment Relations Act of 1999. In July 2002, the Government fulfilled the commitment to review this Act. It worked with stakeholders, unions, employers and others in a full-scale review. The Government's conclusion shows that the Act is generally working well with no major changes needed, only some adjustments. Consequently, the Government is now taking forward the review's findings in an employment relations bill which is currently before Parliament. This bill will build upon the successes of the 1999 Act in a number of ways. For example, trade union membership rights will be enhanced, as the bill ensures that union members have clear rights to use their union services and cannot be bribed to relinquish this essential union right. Trade unions would also have more scope to expel or exclude racist activists within their ranks.

The ILO Global Report refers to the relationship between freedom of association and the settlement of labour conflicts. The United Kingdom Government also considers this to be very important. That is why it has created the right for individuals to be accompanied by a union official at disciplinary and grievance hearings. The new bill will enable that official to play their full role at such hearings. This right takes on a new importance, as from this Octo-

ber, when new regulations and discreet resolution procedures take effect in the United Kingdom.

Trade unions play a vital role in the partnership agenda. The United Kingdom Government wants trade unions to embrace new ways of working and to modernize. That is why it has introduced a new measure in the new bill to provide targeted funding to help unions to modernize their operations, adapt to the changing labour market and meet the increasing needs of their diverse membership. In this way, the Government will provide direct funding to trade unions to support innovative projects that may not otherwise take place. The new bill will also promote partnership in the workplace, and will include the power to make regulations to introduce information and consultation in the workplace by implementing the European Directive on Information and Consultation.

The Global Report rightly emphasizes the importance of tripartism for the role of social partners. All of the measures I have described in relation to the United Kingdom have been brought about through extensive consultation, both formal and informal, with unions, employers and other interested parties. This is in line with the Government's commitment to work inclusively in partnership with all interested parties.

Looking briefly at the Report more broadly, we welcome the focus on workers in the informal economy and the importance of seeking to extend the capacity of such workers to organize. Given that most poor people work in the informal economy, this is clearly a key issue, and of course a challenge. As the Report acknowledges, this might sometimes involve developing different tools for organizing and building new and different forms of partnerships.

Ms. BYERS (*Workers' delegate, Canada*)

There are probably no issues closer to a trade unionist's soul, sense of being and sense of balance than freedom of association, organizing and collective bargaining. In a sense they are head, our hands and our heart. The issues we continue to struggle with are the best ways to organize to provide decent jobs to give economic and social security to workers, and the best ways to organize to achieve social justice for workers, their families and ultimately their communities. We know that there is an advantage belonging to a union both economically and socially. The labour movement organizes to improve and expand workers' rights, to get better wages and working conditions and to improve the quality of life for working families and their communities.

In my country there is not one single workplace right which was just given to workers. We had had to organize to achieve every step forward for our members. And we have to organize and to fight everyday to maintain our rights. We know that if we achieve rights for our own members, we also have a social responsibility to work for those rights to be extended to the unorganized as well. Our responsibility for social justice does not stop at the door of the workplaces of unionized workers. We truly believe acts of social unionism. The Global Report *Organizing for social justice* states that "the biggest challenge in the area of freedom of association and collective bargaining involves extending these rights to more people, especially those in the informal economy or working in sectors less likely to be

reached by the ILO's traditional constituents". Organizing for social justice has become increasingly more complex and more difficult. In the discussion of the raw economics of globalization, the discussion of the social dimensions of globalization is often left out. We cannot let this happen – or workers will continue to lose their rights to organize and to bargain. We believe that each time one group of workers loses ground, we all lose ground with them.

If we are truly going to deal with globalization, our country needs to develop, with the social partners, long-term economic policies that help create decent jobs – jobs which have security in the community, which are full time and which have benefits which provide a sense of dignity to workers, both in their employment and in their retirement years. Without these long-term economic policies, more people will be forced into jobs in the informal economy, jobs will be precarious, wages will be low, benefits will be non-existent, communities will suffer and workers will have their rights to freedom of association and collective bargaining diminished, if not removed altogether.

No country can build a healthy economy when workers' rights are attacked. Young workers, workers of colour, aboriginal workers and workers with disabilities are making some very clear demands. They see the union advantage and they believe that it must be extended to many, many more workers, especially workers from their groups. They would join unions if legislation truly supported freedom of association and the right of workers to bargain. It is amazing that in Canada, although we have the right to organize in the Charter of Rights and Freedoms in our Constitution, it is the only right we have to exercise in secret and with the fear of reprisals. There are many challenges. In the Canadian context we looked at both the private and the public sectors. Both of these sectors need to be healthy in order to create and to continue to provide stable jobs that offer dignity, equality and respect to workers.

In the private sector we see three major areas to challenge us in extending full rights of freedom to association and collective bargaining to workers – those are the agricultural industry, the service and hospitality industry and the manufacturing industry.

Canada produces a lot of the world's food, yet workers in the agricultural industry often have the least rights to join unions and to conclude collective agreements. When we try to organize, employers and governments force us to the courts. In fact, in Ontario, we took it all the way to the Supreme Court. We followed the rules and we were still told by government that agricultural workers did not have the right to bargain. We won the right in the Supreme Court and they changed the law. The story is repeated in agricultural workplaces across our country. Workers who are employed in factory farms have few rights and less workplace protection. In our country we need to know how to balance the needs of migrant workers from outside the country with the needs of workers who migrate within our country. Our country was first developed by immigrants. We continue that partnership, but our economic policies must ensure that we are achieving a balance between the infusion of skills of new Canadians with the development of skills of first Canadians.

The statistical work of the ILO is very important as we struggle with these issues at home. While we research the position of Canadian workers, we need

to know how we compare globally – what the global trends are and skills migration. How will we ensure that the rights of freedom of association and collective bargaining are extended at home and around the globe? We look forward to working with the ILO, to ensure that the goals stated in the Global Report are extended to all workers and that everyone has the right to dignity, equality and justice in the workplace.

Mr. SHEPARD (*Government adviser and substitute delegate, United States*)

The protection of workers' rights is a fundamental American value and an essential component of the American democratic system. The principles of workers' rights are enshrined in US law, practice and policies. Over 200 years ago, our Constitution established "the right of the people peaceably to assemble". In 1935 our National Labor Relations Act guaranteed workers the right to join unions without fear of reprisal and created the National Labor Relations Board to enforce this right. The act states, unambiguously, that employees shall have the right to self-organization, to form, join or assist labour organizations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining, or other mutual aid and protection.

Our strong commitment to workers' rights is reflected in our ongoing support of the ILO's technical assistance programme to implement the principles of the Declaration on Fundamental Principles and Rights at Work. The Declaration recognizes the obligation of the ILO to assist its members and commits the ILO to offering technical assistance and advisory services, to promote and realize core labour standards, including the mobilization of external resources and support.

Since the year 2000 the United States' Department of Labor has contributed over \$60 million to the ILO for technical assistance and support of the Declaration, and has worked closely with the ILO to help countries throughout the world realize the principles and rights necessary for development, democracy and social justice. The Declaration principles are also integral components of our trade agreements. Strong labour policies are at the core of new US free-trade agreements, and good labour standards are a high priority in our negotiations with other countries. In all of the free trade agreements we have recently negotiated, and are presently negotiating, we have asked our trading partners to affirm our mutual obligation as ILO members to work to ensure that the principles of the Declaration are fully protected in domestic labour laws.

I thank the Director-General and his staff for a valuable and informative Report. It is important that the ILO continue to produce a Global Report on the state of workers' rights, and it is important that we continue to revisit this subject, both here at the ILO and in our own countries.

Mr. ATWOLI (*Workers' delegate, Kenya*)

Thank you very much for granting me this opportunity to join my colleagues who have spoken before me on this very important, crucial, Global Report by the ILO.

On behalf of Kenyan workers, my colleagues on the continent, I acknowledge this Global Report as

articulate, informative and appropriate to all of us who are involved in social practice, as practitioners.

I must also thank the Director-General and his entire team for having produced very wonderful work. All areas of our concern are covered in this Report. I shall not feel comfortable if I do not mention the articulate manner in which our Workers' group spokesperson, brother Roy, did make the case that touched every area and every aspect of the social justice application.

But let me deal with an area related to the eight core fundamental Conventions. It is noted that out of 177 member States of the ILO quite a number of these States have not yet ratified all the fundamental core Conventions, particularly the most critical one, the ILO Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87).

This calls for a high-level campaign to be undertaken so that all member States of the ILO can ratify all the core Conventions. In addition, a follow-up on the implementation of these Conventions is needed, and this should involve making sure that domestication of these Conventions is carried out, because most of our countries have a tendency to promise the whole world that they have, or they will, ratify these ILO Conventions, and yet, when it comes to domestication of the same, they do not do it.

Education and training through capacity-building programmes, for all the tripartite partners is crucial and mandatory for the smooth existence of industrial harmony. Training should focus on development of skills for collective bargaining and dispute resolution. This will enable both employers' and workers' organizations to maintain industrial peace, which is a factor in any given development, and this also promotes productivity and possible economic growth of any given country.

There is a need for the fundamental Conventions to be applicable to the informal sector, public service, domestic, agriculture, and the export processing zones. I must thank our colleagues in the United States, through the American Centre for the International Labor Solidarity. They have assisted us in Kenya in recruiting and organizing more than 18,000 workers in export processing zones to join the trade union. This, I believe, will ensure that the terms and conditions of employment of workers in these sectors will be taken care of through their respective trade union organizations.

The ILO should, therefore, ensure that suitable programmes are put in place to assist workers in these sectors to be organized to join their respective trade unions, and those errant employers also to join the federations of the organizations in their respective countries. This, I believe, can be done through the existing trade unions and employers' organizations in their respective countries.

In the process of collective bargaining with the employers, workers normally find themselves in an awkward situation, due to non-availability of data on the economic performance of the enterprise. Therefore, as long as we have this problem it will be very difficult for us to operate on an equal footing. I therefore appeal to the ILO to focus on ways and means of assisting workers' organizations to get said information that will reveal, or will help them to reach a proper amicable agreement, and this should be in areas related to the productivity of an enterprise, since production is the purpose of all.

In addition, all social partners should be directly involved in the constricting of cost of living indices;

this will ensure that the compiled cost of living indices are accurate and portray the true picture of the rise in the cost of living, and any other inflation-related data. It will also ensure that all the necessary factors like food, shelter, clothing, education, etc. are included in the basket of goods for compilation of that particular data.

I am aware that my friends, the employers, might not agree with this proposal but we need to create a level playing-field and transparent ground for all social partners.

In a nutshell, I will try and put suggestions for the way forward. In my own view, the following should be given priority in the plan of action for the coming four years.

Firstly, an intensified ratification campaign for the eight core ILO fundamental Conventions; secondly, extension of coverage of the eight core Conventions to agriculture, more so in the cut flower sector in Kenya, where employers do not conform to any given law, and exploitation is the order of the day. I am also happy to be the General Secretary of the Kenyan Agriculture and Plantation Workers' Union. This should also be extended to informal domestic public services and other vulnerable groups that require cover. Also, lastly, the establishment of institutional frameworks for the tripartite partners and tripartism should be strengthened as it is a pillar of industrial peace worldwide. And none of the collaborating partners, for example, civil society or NGOs, tamper with this most respected tripartism arrangement.

As we do not want to create confusion in every area of our practice, I believe that by doing this productivity, economic growth and development will be enhanced.

Original French: Mr. PRINCE (Workers' delegate, Switzerland)

Allow me to begin by expressing the deep gratitude that is felt by men and women workers here in Switzerland for the pertinent, effective and topical nature of the Report on the social dimension of globalization.

We endorse the extremely positive assessment of and the support that has been expressed by the Conference for the role being played by our Director-General. We know that he is resolute in his efforts to promote the effective implementation of international labour standards throughout the world.

I would like to draw the Director-General's attention to two points that we consider to be particularly important in the light of the plan of action for the next four years.

First, in paragraph 2 of the excellent Report, *Organizing for social justice*, we read that the fundamental principle of freedom of association and the right to collective bargaining is a reflection of human dignity. We also read that, as an integral part of democracy, freedom of association and the right to collective bargaining are key to realizing the other fundamental rights set out in the ILO Declaration.

Nonetheless, if you then look at the information contained in paragraph 209 of the same Report, you have to note that the scope of collective bargaining is extremely limited in some industrialized countries, due to an insufficient coverage of collective labour agreements. Sad to say, this is the case for Switzerland and also for Canada, Japan and the United States.

We would therefore ask whether the Director-General, on behalf of the ILO, could attempt to con-

convince the Governments of these rich, developed and democratic countries to make use of technical assistance provided by the ILO to promote the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), in particular because Article 4 of that Convention stipulates that appropriate measures should, if necessary, be taken to encourage voluntary negotiations in order to resolve questions relating to employment conditions. This could be done whether or not the countries in question have ratified Convention No. 98.

Our second point relates to the fact that the member States of the ILO are the direct beneficiaries of international labour standards and of the technical assistance provided by the ILO. It would appear on that the international organizations benefit neither from these standards nor from that assistance. With that in mind, we would like to congratulate the Director-General for having introduced and for supporting collective bargaining within the ILO. We are very grateful to him for what he has done as, indeed, are all those working in this area. The practice that is being followed by the ILO should now be taken up by the leaders of other international organizations. Unfortunately, that is far from being the case today. Furthermore, we would say that all of those who exercise authority in the name of the Director-General should also engage in the art of negotiating in good faith. Collective bargaining has to be cultivated, strengthened and expanded within the ILO itself so that, quite transparently, it can be used when dealing with all issues of interest to any of the stakeholders present, in order to promote the greater good of the Organization and of those who work within it.

We would therefore urge the Director-General of the ILO, on behalf of the Organization that he heads, to raise awareness among the other international organizations, beginning with those that are part of the United Nations system, of the crucial importance for the organization themselves and those who work within them of implementing the ILO Declaration on Fundamental Principles and Rights at Work.

In order to illustrate the importance of this issue, allow me to point out that the members of a staff union within the United Nations Organization here in Geneva were prevented under risk of penalty from joining the Swiss Federation of Trade Unions, which is a democratic organization that is held in great esteem and that is affiliated to the International Confederation of Free Trade Unions. We consider this to be an unacceptable breach of the right to freedom of association.

We have no doubt whatsoever that the Director-General will be kind enough to heed our concerns, which relate to the promotion of decent work throughout the world, including in some developed countries with regard to Convention No. 98, and also within the international organizations which should not follow the example set by export free zones.

Mr. DZVITI (*Government adviser, Zimbabwe, speaking on behalf of Mr. MANGWANA, Minister of Public Service, Labour and Social Welfare*)

I am making this statement on behalf of my Minister as he became committed to other urgent duties.

The Zimbabwe Government would like to join previous delegates in congratulating the Director-General on his task of producing an informative

Global Report. The Global Report provides us with the basis for comparing our own situation with what obtains in other countries in relation to how Conventions Nos. 87 and 98 on freedom of association and collective bargaining are being given effect both in law and in practice. Such a comparison is necessary, for there are merits in knowing how other societies organize in order to improve one's own system.

In Zimbabwe freedom of association is enshrined in both our country's Constitution and the Labour Act; in addition, Zimbabwe has ratified Conventions Nos. 87 and 98 and we are currently perfecting the Labour Act with the assistance of an ILO project, for which we are thankful.

If I heard correctly this morning, the Workers' spokesperson cited Zimbabwe as one country where workers were being killed for their belief in freedom of association. I must state that we do not know of any one person in Zimbabwe who was killed for union activities.

The subject of freedom of association in the world of work, particularly as it relates to the wider political discourse, is a cause of concern to many developing economies and those in transition.

The Global Report which we are considering acknowledges the position arrived at by the Committee on Freedom of Association of the Governing Body of the ILO in 1996 to the effect that governments should not attempt to transform trade unions into instruments for the pursuance of political aims.

(The speaker is interrupted.)

Sir ROY TROTMAN (*Workers' delegate, Barbados, speaking on behalf of the Workers' group*)

I am asking for the floor on a point of order.

In all proper parliamentary systems we are advised that we should not mislead the house. The person speaking for Zimbabwe is misleading this house.

If I wanted to say that Zimbabwe had killed people I would have said so. I never said that. I never mentioned any country where people were killed. I referred to a number of people who were killed but I never associated them with a country, and I referred to Zimbabwe and said that Zimbabwe is listed as a country where there are problems.

I would ask that that be struck from the record and I would not mind receiving a decent apology from the member.

Mr. DZVITI (*Government adviser, Zimbabwe, speaking on behalf of Mr. MANGWANA, Minister of Public Service, Labour and Social Welfare*)

I indicated that "if I heard him correctly", and, as he explained, I believe I heard him incorrectly and I wish to apologise for that and withdraw that particular part of my speech. Neither should the trade unions promote essentially political interests.

As I was saying, neither should trade unions promote essentially political interests.

It is our belief that some governments, particularly in the developed world, are interfering in political arrangements in developing countries through sponsoring the politically motivated activities of trade unions in these developing countries, with a view to effecting so-called regime changes. This kind of interference by these governments militates against the pursuance of meaningful tripartite social dialogue in the developing countries concerned.

A trade union centre with a political agenda to remove the sitting government while being back-stopped by a foreign government cannot be seen to be engaging government and organized business to resolve national socio-economic problems.

In the case of Zimbabwe, trade union leaders who are also high-ranking members of opposition political parties are preoccupied with furthering the political agenda of removing the sitting government.

These trade union leaders aspire to form a government, hence they pay lip service to tripartite social dialogue. The promotion of essential ...

(The speaker is interrupted.)

Mr. POTTER (*Employers' delegate, United States, speaking on behalf of the Employers' group*)

We have a place to discuss these kinds of things and I believe that is going to occur on Saturday morning in the Committee on the Application of Standards. The scope of the speaker's discussion is beyond anything that is intended in this Global Report.

Mr. DZVITI (*Employers' adviser, Zimbabwe*)

I understand that, in fact, there will be discussions on other issues in Zimbabwe; it is only on the list for discussions, but as this issue of globalization is on the agenda I thought perhaps I should express the feelings of Zimbabwe.

In conclusion, let me say the Decent Work Agenda cannot be pursued in abject poverty. In this regard it becomes desirable for trade union organizations, employers and governments to work together.

It is on this basis that Zimbabwe supports the conclusions reflected in the Global Report. The Global Report says that the ILO needs to examine more closely the means by which the principles and rights of freedom of association and collective bargaining can be used to build an institutional framework for the labour market that promotes sustainable social and economic development, especially the reduction of poverty.

Original French: Ms. D'HONDT (Government delegate, Belgium)

Belgium greatly appreciates the possibility of replying to the pertinent questions raised about the thrust of the ILO's work in the future.

As to the first question Belgium wishes to be more cautious than the general conclusion, because the Report highlights more what progress has been made with the ratification and implementation of the two Conventions, although it does at the same time refer to the considerable difficulties which the Committee on the Application of Standards still has to deal with.

With regard to the promotion of collective bargaining, this is a subject in which my country is very interested in, from the point of view of technical cooperation. We have effective negotiation systems, both on a centralized basis, within companies and on a sectoral basis, as each level is more suited to handling certain questions than others. The ILO should find examples in support of this argument and develop it in the next Report by comparing modes that perform efficiently. Competitiveness and innovation can depend on agreements at various levels. The question of salaries and wages could be added to the list of subjects.

Thirdly we accept the idea of concentrating forthcoming deliberations on the sectors and groups identified in the Report, but this should not be at the expense of the overall view which is needed in the follow-up to 1998 Declaration on Fundamental Principles and Rights at Work. We suggest that priority should go to the informal economy and the export processing zones.

Question 4 could be discussed in greater depth by the Governing Body after this debate. In order to put forward convincing arguments on these topics the ILO should establish correlations, for example, between salaries, competitively, collective bargaining, innovation and job creation, or between collective bargaining, equality of wages and salaries, efforts to boost productivity, wage trends, the number of strikes and competitively.

Fifth, on technical cooperation I would just confine my remarks to urging the Offices of the Conference to encourage ratification of the standards which we are discussing, so that they bear fruit; to take action on the idea that the Director-General proposed at the end of his statement, namely that the Officers of the Conference should intervene in emergencies, at the request of the parties concerned, and to request the ILO Centre in Turin to develop appropriate training courses. In conclusion, I would like to suggest some major themes for the next action plan: strengthen the balance between the right of association and the needs of representative organizations so as to ensure the success of collective bargaining, the context of works councils and multinational corporations, collective bargaining and the social accountability of companies with regard to new challenges, freedom of association for the most vulnerable groups in the informal economy and, in conclusion, freedom of association and the rights of women in the workplace.

Mr. RAMBHARAT (*Employers' adviser, Trinidad and Tobago*)

I wish to acknowledge my regional neighbour, Sir Roy Trotman, and my Trinidad and Tobago labour representative, Mr. Robert Guiseppe.

In relation to the Global Report, I wish to comment on collective bargaining and the global economy, and have five points to make to this plenary.

The first point is that, in my view, over the next four years, the fundamental principles and rights at work may not be viewed in isolation, but must be seen within the context of globalization, enterprise development and the efforts to create a new global economy.

This global economy may present opportunities for many countries, but more likely it threatens the existence of work itself. Therefore, any discussion on rights at work must, by necessity, involve a discussion on the availability of work. You will recall that the Director-General has said that in the face of globalization, the livelihoods of many families throughout the world are under serious threat.

The second point is that the Employers' Consultative Association of Trinidad and Tobago can offer a model for collective bargaining in the global economy, based on the recent experience gained in the restructuring of Trinidad and Tobago's state-owned sugar industry, which had to be reorganized to meet the challenges of the global economy and of a world without quotas and preferential prices for sugar. In 2000, an international study found that Trinidad and Tobago was one of the most inefficient producers of sugar, and this threatened the livelihoods of 20 per

cent of the population, whose social and economic lives were in some way linked to sugar. This group includes many mature women and young fathers.

The third point is that true social dialogue between the partners in a framework provided by a consent order of the industrial court of Trinidad and Tobago have enabled the sugar industry to focus on the creation of a policy framework which will replace lost jobs and provide opportunities for secure incomes, cover training and retraining for decent work and will also provide pensions and social support for those who are unable to provide for themselves through employment.

The fourth point is that the agreed framework between these social partners, the trade unions and the Government, entrusts the third partner, the employers' group, with the responsibility for designing and implementing critical policy components, in particular those relating to training and retraining, job placement and social support activities. This approach is consistent with one of the themes of the ILO Declaration on Fundamental Principles and Rights at Work, that is that incomes from work must be adequate to meet the essential needs of families, and that this is central to socio-economic security.

This quest for consensus and consent in Trinidad and Tobago will allow stakeholders to focus their energies on these real issues without the distractions of conflict and division.

The fifth and final point, is that this Trinidad and Tobago model for collective bargaining in the global economy embraces two important elements that are mentioned in the Director-General's Report, *A fair globalization: The role of the ILO*. The first element is that social partners have created a job-placement programme in which the employers' group has ensured that there is a link between the training and retraining opportunities offered by, and paid for by, the Government, and the integrated national activities to promote employment and income-earning opportunities.

The second element is a social outreach programme, called *People on the move*, which has positioned as part of an imperative for decent work in local development.

Our employers' group is satisfied with the response of the social partners in Trinidad and Tobago, which brought about the development of local capacity and strengthened the local social framework.

Regarding the future role of the ILO, we feel that the ILO can provide support to its Members to allow them to access information on the social impact of international, economic, financial and trade policies, on the availability of decent, sustainable and secure work. For example, the ILO, in cooperation with other multinational agencies, may wish to undertake an assessment of the impact of the restructuring of Trinidad and Tobago's sugar industry and support us in the way forward. We therefore agree with the idea of focusing the ILO's work on the sectors identified in your draft discussion document.

Secondly, in response to globalization and the creation of a global economy, the ILO may wish to support the concept of collective bargaining in furtherance of enterprise development at the local level. This will serve as a means of developing the Decent Work Agenda, securing sustainable incomes, knowledge and capacity-building, and as a

local response to globalization and a global economy.

Original Russian: Mr. SIDOROV (Workers' adviser and substitute delegate, Russian Federation)

I do not know if I am right in saying this, but I am not going to begin by praising the Report or its authors. The Report, after all, is a piece of work and any work should be done well. The main thing is that the Declaration itself, as well as its follow-up that has been in operation for a few years now, is clearly a mechanism that has been effective in promoting freedom of association and collective bargaining.

Now, all the countries of the former Soviet Union, including the Russian Federation, have ratified Convention No. 87 and, with the exception of two, they have also ratified Convention No. 98. In other words, things are not so bad. However, in practice, things are not quite as good as they look on paper.

If you look at what happened just before this 92nd Session of the International Labour Conference, in Moscow we held another conference at which we discussed the question of observance of trade union rights and freedoms within the territory of the former Soviet Union. The message that emerged from that conference in Moscow was that violations of Conventions Nos. 87 and 98 do exist in all countries in that region. In fact, they are so numerous that an examination of those violations could actually take up a special sitting of the International Labour Conference. That being the case, we have many grievances and many complaints submitted by trade unions to the Committee on Freedom of Association, and they bear witness to the wide variety of problems that exist. They show that, both in terms of legislation and in terms of practice, there are problems and the governments and employers are not particularly scrupulous about respecting their obligations vis-à-vis trade unions or vis-à-vis society as a whole.

Further, when you look at the instances of violations of trade union rights, you see that there are, in fact, deliberate violations of those rights and that such violations are increasing every year.

I could list all of these violations, but I am not going to take up your time; I would just ask you to read the report of the Committee on Freedom of Association, and you will see that in its recommendations, referring to guarantees of constitutional and other rights, it says certain things should be done by the state bodies responsible for ensuring the application of legislation. You will also see what it recommends be done by the ILO in order to assist governments in fulfilling their obligations.

The basic idea underlying all this is social justice, involving the tripartite constituents but, clearly, the way that that idea is understood is not the same on all sides.

In our region we are particularly concerned about the fact that in many countries, countries that have declared themselves to be constitutional States, the governments themselves do not abide by their own laws and they do not hesitate to violate the rights of trade unions and their members. I have in mind, for example, interference in the internal affairs of trade unions, attempts to impose the will of the government on trade unions, cronyism, favouritism of different types and sometimes simply a failure to recognize what has to be done in order to comply with

the laws that guarantee freedom of association and the right to collective bargaining.

Obviously, governments are not willing to shoulder their own responsibilities, then what are we to expect from employers? I refer to both national employers in those countries and foreign employers operating in our region. It has to be recognized that many foreign companies operating in our region are unwilling to implement the kind of good governance policies in our region that they implement in their own countries. It seems to me that the ILO Declaration on Fundamental Principles and Rights at Work should not just be a statement of pious intent. It should actually be an international mechanism that can be used to resolve the problems that exist and to ensure that fundamental rights are guaranteed. Otherwise, there can be no stability in industrial relations, nor can there be any achievement of social justice and, indeed, there can be no hope of just development for individual countries or for humankind as a whole.

Mr. KETTLEDAS (*Government delegate, South Africa*)

The Minister of Labour of South Africa is unable to attend this sitting. The South African Government delegation wishes to commend the Director-General for an excellent and incisive Report.

The South African Bill of Rights enshrines as fundamental both the right to associate freely and the right to collective bargaining. In the South African labour market these fundamental rights find legislative effect in the Labour Relations Act of 1995 and subsequent amendments. The aim of the South African labour market regime is to ensure that workers and employers can freely and fairly exercise their rights in a manner that ensures stability and that the injustices of the past are rectified. As such, in our tenth year of democracy, we cannot but fully agree with and support the Report on the fundamental principle that all workers and employers have the right to freely form and join organizations to promote and defend their interests without interference from one another or the State.

Our legislative interventions have ensured that the process of registration of either employer or worker organizations has been simplified and brought in line with ILO standards, but our legislative environment also protects workers and employers from bogus unions and organizations by setting very basic minimum standards that such organizations have to adhere to. These provisions were scrutinized against the principle of freedom of association. It was felt that any union or employers' organization that operates within the boundaries of the Constitution, will not be negatively affected or be subjected to the relevant provisions of the Act or the guidelines. The legislation also promotes the establishment of strong trade unions and ensures that full collective bargaining rights are enjoyed where there are representative trade unions.

The South African Government delegation fully agrees with and supports the statement that "freedom of association and the effective recognition of the right to collective bargaining are the foundation for a process in which workers and employers make claims upon each other and resolve them through a process of negotiation leading to collective agreements that are mutually beneficial". The approach of our Government is founded on the belief that the employer and employee parties in an industry, trade or service, are able, through negotiation, to deal

with matters of mutual interest best themselves. It would be easier for parties to maintain labour peace in an environment created by them. The State's function is to provide the legislative machinery for the interaction of employers and employees in a neutral framework which balances the power relationship.

The great strength of this approach is that it is conducive to better regulation of matters which affect a whole industry or service and it is able to set minimum standards and conditions which can be operative throughout a sector. But we also understand, within such a context, employer/worker relations can break down to such a degree that dispute resolution mechanisms need to be utilized.

The dispute resolution process in South African law includes making the dispute resolution system more accessible to workers and possibly to limit exploitation by employers. The system also places a premium on conciliation and dialogue.

As noted in the Report, the challenges facing domestic workers and farm workers, in terms of exercising their right to organize, remain considerable. Workers in both these sectors are particularly vulnerable because of the subjective and objective conditions that prevent them from organizing. While the Government has taken all steps possible to ensure that conducive conditions are created for collective organization, we are also of the view that the benefits that emerge from collective bargaining cannot be denied to workers from these and other vulnerable sectors.

Through a process that incorporates social dialogue, we have put in place sectoral determinations that set minimum wages and minimum standards of work for those sectors. I must add that the Government also takes responsibility for ensuring that those standards are met. We will use the examples that are highlighted in the Report as a model in order to strive for ideal solutions to our problems and try to improve in those areas that do not meet expectations.

In conclusion, we welcome the Report and express our commitment to continue with the implementation of fair employment principles. Our support of the principles enshrined in this Declaration should not be doubted and we will continue with the process to ensure an environment of freedom of association common to all which creates opportunities for all.

Mr. GAMMAMPILA DON (*Government delegate, Sri Lanka*)

At the outset, let me offer my congratulations to the President and the three Vice-Presidents on their election. Let me also congratulate the ILO for presenting the first Report of the second cycle of Global Reports under the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work, entitled *Organizing for social justice*, at this special plenary session.

The first Global Report under the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work, entitled *Your voice at work*, brought out a number of issues and a wealth of practical experiences. The Global Report this year, *Organizing for social justice*, continues the assessment of current trends.

We recognize the potential of freedom of association and collective bargaining in sound economic development. Where people have a participatory voice in their work and in the conditions of their

work, productivity improves. If workers feel a sense of personal efficacy, sharing in the decisions that affect their lives, they are far more likely to share the enterprise- and national-level goals of increased productivity and competitiveness. Industrial peace, itself a boost to productivity, is also much more surely maintained when all concerned have a voice and feel part of the process.

Sri Lanka has ratified all eight ILO core Conventions including 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). However, a few legal hurdles and practical obstacles still remain to giving full effect to the provisions of Conventions Nos. 87 and 98.

Most of the legal deficits pertain to workers in the public sector. Apart from the legal restrictions relating to the Federation of Public Sector Trade Unions, the ILO Committee of Experts on the Application of Conventions and Recommendations has observed restrictions on the freedom of association of prison workers and judges. Sri Lanka is working closely with the ILO in addressing these remaining deficits.

During the past few years, Sri Lanka has made a headway in promoting freedom of association and collective bargaining in the investment promotion zones. The number of trade unions operating in the investment promotion zones has increased.

Some of the trade unions have successfully negotiated collective agreements. Some of the unions that do not have the required membership for the recognition of collective bargaining have been able to achieve the recognition needed to represent the grievances of individual members.

Apart from the argument based on rights, there is also an underlying economic argument for ensuring labour rights, including freedom of association, since some trade quotas and granting of generalized systems of preferences (GSP) are dependent upon a well-ensured implementation of the Convention and a clear commitment from the Government to adhere to its obligations. This has led to the increased awareness of freedom of association and effective recognition of the right to collective bargaining by the business community.

The GSP granted to Sri Lanka by the European Union for its labour relations practices this year, 2004, is an indication of the progress made in this area. The greatest challenge before us is promoting freedom of association and collective bargaining in small enterprises and in the informal economy, where the majority of the workforce is active.

We recognize the diversity of work arrangements, employment relations and the needs and problems of the workforce in the informal economy. We fully agree with the findings of the Global Report that "the traditions and tools of organizing in the informal economy may not be the same as in the organized part of the economy". However, the existing informal organizations that operate within the informal economy exemplify the potential for organization.

Freedom of association is a prerequisite for social dialogue. We believe in the need for the promotion of social dialogue in order to deal with the core problem of an industrial relations climate that is weak and confrontational overall. We believe in strong tripartite social partners and the introduction of democratic procedures.

For this purpose, the trade union organizations and the employer organizations have to be strengthened. There is also need to strengthen the overall credibility of the national tripartite mechanisms, such as the National Labour Advisory Council. The ILO is assisting and guiding us in all these endeavours.

I am very hopeful that the proposed national decent work action plan for Sri Lanka will address most of the challenges in the implementation of the principles of freedom of association and the right to collective bargaining.

Original Bulgarian: Mr. APOSTOLOV (Government delegate, Bulgaria)

Allow me to begin by saying how grateful we are to have this meeting and how much we would like to commend the Report that we have before us, the Global Report under the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work. We think it is of extremely high quality.

Bulgaria has been a Member of the ILO since 1920 and it has been a member also of the Governing Body. Bulgaria has ratified all of the core Conventions of the ILO and, that being so, we cannot stand idly by when we are discussing the issues that are referred to in the introductory part of this Report.

We would therefore like to express our concern about the serious problems that exist with reference to violations of freedom of association and we recognize that this is a problem that affects both trade unions and employers' associations in several countries that are in fact members of the ILO. We therefore believe that we should endorse the statement made in the first part of this Global Report, that is to say that free associations of employers and workers and the collective bargaining and other mechanisms of dialogue that they establish are foundations for a democratic development path.

We believe, in the light of our experience in Bulgaria, that standard setting is extremely important, and that means we must have clearly defined criteria. We also consider that the criteria that have been developed by the ILO are of great use in that respect. We in Bulgaria have been able to make use of these criteria in setting standards at national levels ourselves, and they have also been reflected in the work of our employers' associations.

We also regret the fact that, as yet, we do not have sufficient development of collective agreements in our country involving the participation of trade unions and employers' associations, and this is a situation which applies to many countries in Central and Eastern Europe. We therefore recognize that there is a need for us to enhance the way in which dialogue, involving all the social partners, takes place in those countries, and we think that such dialogue is of crucial importance for further progress.

Further, we believe that we must emphasize the fact that the positive results achieved, in accordance with the mechanisms for follow-up to the ILO Declaration, have also been very commendable, and in Bulgaria, for instance, we have been able to involve employers' associations and make them more aware of what is really involved in collective bargaining and collective negotiations. That being so, they are now able to play a greater part in discussion with the social partners and to recognize issues that are of common concern to both employers and trade unions.

We would therefore like to agree with the view expressed throughout this Report, to the effect that collective bargaining has an extremely important part to play in achieving an effective balance between the interests of workers and employers, and this is particularly important in the context of globalization.

We therefore feel that it is important to recognize the crucial importance of collective bargaining in resolving the problems that are arising today, particularly problems of increasing poverty. This is vital if we are to protect those who live in poverty today, and the number of those living in poverty is ever increasing. We recognize that the ILO goal of decent work for all is one that must be achieved if we are to eradicate poverty.

We would therefore like once again to reassert our support for the three-step approach towards achieving that goal. Certainly, what we in Bulgaria tend to do is, first, to ratify international labour standards, second, to create an appropriate legal and administrative framework to allow us genuinely to implement all of the rights that we have then ratified, and third, to continue with capacity building, both for trade unionists and for employers' associations.

I am now very happy to be able to tell you, as I move towards my conclusion, that in Bulgaria we have already gone a long way down that path, and if you look at the overall picture in Bulgaria, then you see that we can be optimistic, despite all the problems that we face. We are able to look to the future with optimism, and we believe that we have been able to draft a lot of extremely good legislation that will guarantee rights, and that is fully in line with ILO standards.

Lastly, I would like once again to underscore the fact that all members of the ILO encountering problems in this area must make use of the experience of the ILO, and it is extremely useful if they can obtain technical assistance which is properly targeted and focused at their needs, that is to say, the needs they have to enhance rights at work for all.

Mr. BENYDIN (*Workers' delegate, Mauritius*)

I would like in the first instance to associate myself with previous speakers in commending the clarity and quality of the contents of the Global Report under the follow-up to the Declaration on Fundamental Principles and Rights at Work.

"Organizing for social justice" is indeed what we in the trade union movement are cherishing every day, because, over and above our responsibilities of defending and promoting the inalienable rights of workers in the workplace, we are also strongly committed to leading the struggle against the negative aspects of the neo-liberal system and to ensure that social justice, human values and, above all, the dignity of workers should prevail in all circumstances. In this respect, we are convinced that the bedrock of human dignity can be best safeguarded with the fundamental principle of freedom of association, an intrinsic human right, the right to organize, the elimination of all forms of forced or bonded labour, non-discrimination at work and the elimination of child labour.

The ILO has played an instrumental role and we consider that it should continue to be the social pillar of the new world order and a new governance to ensure progress. We also believe that collective bargaining on paper alone is not sufficient. I think that collective bargaining must go hand in hand

with the right to strike because, in certain countries where we have collective bargaining, we do not necessarily have the right to strike. So, we want to have the right to strike so that, when we deal with employers or with a government, we can make significant progress in negotiations. We say that we do not only want to bark but must also have the possibility of biting at times. So I think that collective bargaining is very important. Particularly, we see that with new technology and working methods, and factors like outsourcing, deregulation, flexibility, etc., we in the trade union movement are anxious about the tendency to discourage workers from joining trade unions, particularly in view of the precarious nature of the new forms of employment.

We appreciate the fact that the ILO is continuing with its noble campaign to promote decent work involving a living wage to allow workers to meet the basic needs of their families. Indeed, the Declaration on Fundamental Principles and Rights at Work, adopted in 1998, reminds member States of their obligation to respect, to promote and to apply ratified Conventions, particularly the eight core Conventions which reflect the essential characteristics of good industrial relations, good governance and industrial democracy.

By "social dialogue" we mean meaningful and constructive dialogue, and this, together with the consolidation of tripartism is the essential component to obtain results in our struggle for better salaries, better conditions of work, social peace and also poverty elimination. But of course, these two factors require that there should be the necessary and appropriate forum and legal framework in all member States, so that we can have meaningful dialogue and the social partners can join hands together to better the situation of workers and the population in general.

We are the trade unionists. Remember that the world is now a global village and that men and women workers are at the centre of all developments, be it on the social, economic or political field. Neither can we remain indifferent to the plight of migrant workers in a world where mobility has become a reality. In this regard, we want to make the voice of the migrant heard wherever it is present. We have a duty to set up specialized units within our union structure to enforce respect for their rights. To this end, we rely also on the technical support and cooperation of the ILO. We would like, through these means, to ensure that equal treatment and equal opportunities are given to migrant workers on the same basis as native workers.

We would like to commend this Report and we hope that none of us are insensitive to the plight of workers in the export processing zones, where we know that some do not even enjoy the basic rights to join trade unions. Even in countries where this is allowed, we know that it is not easy because now the tendency in export processing zones is towards cheap labour, and I think that we should also fight for a living wage. In this respect, we consider that Conventions Nos. 87 and 98 are very important for us, and we rely on the cooperation of everybody, particularly the ILO, so that we can live in a better world and a better society.

Original Spanish: Ms. FRANCO (Government adviser and substitute delegate, Mexico)

I would like, on behalf of Mexico, to express our thanks for having been invited to take part in this

interactive session and to refer briefly to the Global Report.

As regards the efforts and achievements of the Mexican Government in the promotion of the principle of freedom of association and collective bargaining, I would like to share with you our suggestions for the ILO's further work in this direction.

The focus has been primarily on the positive developments which have taken place since the adoption of the Declaration as a result of ILO technical cooperation programmes. The Report also refers to certain sectors where problems persist with regard to freedom of association and observance of trade union rights. To its credit, the report also cites research carried out by other international organizations. Recalling that the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work is promotional in nature, the Government of Mexico commends the Director-General for the constructive approach taken in his Report with regard to freedom of association and collective bargaining.

Mexico is mentioned in the Report as a country that has not ratified the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), but has sent a report under the follow-up to the Declaration as regards non-ratified Conventions stating that the Mexican Constitution recognizes this right. The Government of Mexico would like to point out that, while recalling the promotional nature of the Declaration, it has promoted discussions between the social partners on the possibility of ratifying Convention No. 98. It has also acted as facilitator in discussions between the social partners on the subject of labour reform.

As regards the growth of the informal economy in Mexico, steps have been taken to ease the transition towards formality, not only through labour law reform, such as the above – mentioned amendments to the Federal Labour Act based on consensus with the social partners, but also through administrative and fiscal measures.

The Report says that the Committee on Freedom of Association has examined a case involving a United States Supreme Court ruling according to which undocumented workers are not entitled to back pay after having been dismissed illegally for trade union activities, over turning the findings on the National Labor Relations Board (NLRB). The Committee on Freedom of Association concluded that the denial of back pay ordered by the NLRB left workers without adequate protection against anti-union discrimination. The Government of Mexico concedes that the decision of the Supreme Court is within the remit of the legislative branch.

In a landmark agreement, the Mexican Secretary for Labour and Social Welfare and the United States Department of Labor signed a Joint Declaration in 2002 recognising that the labour rights of migrant workers are independent of their migrant status. This principle has since been recognized in a number of other international instruments, such as an opinion issued by the ILO in November 2002 as regards to the scope of international provisions on labour rights with regard to migrant workers. An advisory opinion issued in 2003 by the Inter-American Court of Human Rights referred to the legal status and rights of undocumented migrants. In April 2004 the United Nations Commission on Human Rights adopted resolutions on the human rights of migrant workers and on the International Con-

vention on the Protection of the Rights of all Migrant Workers and their Families. As regards to the points for discussion, the Government of Mexico agrees with the focus on the sectors which have been identified, in particular agriculture, and suggests disseminating information to ensure that it is accessible to those who need to exercise their rights of freedom of association and collective bargaining.

Original Arabic: Mr. DERBI (Government delegate, Libyan Arab Jamahiriya)

I would like to congratulate the President on his appointment to chair this meeting at which we are discussing an extremely important Report. Specifically, this is a report which deals with a subject which is very important to all of us, and that is freedom of association, the right to organize and social justice. I would like to thank the ILO for having prepared this Global Report, a report which has been produced as part of the Declaration on Fundamental Principles and Rights at Work and its Follow-up. The efforts that the Office has made in order to prepare this document deserve our heartfelt thanks.

The Libyan Arab Jamahiriya has ratified all the Conventions which are linked with this Declaration. Legislation in the Libyan Arab Jamahiriya covers the content of these Conventions. Freedom of association and the right to bargain collectively are principles enshrined in the labour law of 1 May 1970. This labour law governs the founding of trade unions, whatever form they may take and without any restrictions. We have also passed a law devoted to the trade union movement, quite separate from the original labour law of 1970. The law on trade unions lays down the ways in which trade unions may be established, in conformity with Conventions Nos. 87 and 98, thus resulting from decisions taken by the International Labour Conference.

We are convinced that trade union organizations play a vital role in society and in development. This is particularly true at the present time when we are facing globalization and technological revolution. Trade unions and the freedom to establish trade unions and to bargain collectively will have an essential role in the promotion of civil society, if we wish to make sure that our society develops, makes progress, manages to overcome poverty and establishes social justice. The greatest importance in these cases must be given to trade unions and the trade union movement.

We also have the Green Book, a book which gave Libyans the right to establish trade unions. Under article 6 of the Green Book, Libyans have every right to establish a trade union. We have another law, a law to enhance personal freedom, which also covers the establishment of trade unions. We believe that these laws together guarantee citizens the right to form trade unions.

We support the conclusions of the Report.

Mr. GYÖRGY (Workers' adviser, Hungary)

I thank and congratulate all those who worked on and contributed to this excellent Report; it is a report which is unambiguous, realistic and yet which looks to the future in a practical way, by mapping out the work to be done.

Today we heard numerous explanations of the substance and the title of this Report. Out in the real world many would say it is semantics. However, this morning I still assumed that those of us who

have gathered here to discuss the Report came in the understanding that we are all committed and dedicated to putting to good use the ideals enshrined in the core labour standards, of incorporating essential elements for social justice into everyday practice.

I need to comment on a widespread misunderstanding or misinterpretation, namely, as has also been expressed earlier this morning in this hall, that the right to collective bargaining is a trade union right. I challenge that statement. Collective bargaining and social dialogue is the right of all protagonists, workers and players, trade unions and business. Even more so it is an opportunity, and for some of us it is an obligation towards this society.

Recognizing each other as real actors and not only taking each other as subjects, but also seeking the mutually beneficial in the world of labour, brings us further in creating the conditions for economic and social success. At this point, let me thank the Dutch Government delegate for sharing his hesitation about the name of the Commission and the way he formulated worldwide commitment to social rights delivers growth. This is an understanding which, when put into practice, can take us to social globalization.

Let me also express disappointment over contributions to this debate which clearly demonstrate the further existence of high-level rhetoric – statements which have nothing to do with the cruel reality of the every day violations of human and workers' rights. Lip service must be replaced with application of these internationally recognized standards.

Coming from a region – Central and Eastern Europe – where over the past decade we have been experiencing radical transformation of the economic, political and social systems and of society itself, we know what a range of open and covert violations of workers' and trade union rights exist. Economic transition, privatization, foreign direct investment and greed for profit, coupled with decreasing union density and loss of union strength, have made the vulnerable even more exposed. Although most of our countries are by now becoming new Member States of the European Union and as such have had to take on the social *acquis communautaire* of the Economic Union, which generally recognizes trade union and workers' rights, the application of those rights in everyday practice is less than perfect. You just have to listen to the presentations of Workers' delegates from that region in the plenary hall over the last few days. I would cite some examples: some employers have suspended wages of trade union leaders; some act to make collective agreements null and void; some demand that new employees pledge not to join trade unions in order to get the job. There are cases of unfair dismissal for union activism; harassment of trade union leaders; foreign investors' anti-union practice; setting up of "yellow" unions. These are just some examples of rights violations, without mentioning the specific details and countries where they happened.

I would strongly recommend that anyone wishing to see the details should consult the ICFTU's annual survey of violations of trade union rights, just published yesterday. In countries where legal systems are under development or being fine-tuned, where legal systems are fragile, court proceedings extremely slow and lengthy, labour inspections ineffective, and fines for the violators are ridiculously

low, genuine efforts are needed from the State to give effect to the democratically chosen rules. The implementation of law strengthens democracy and people's commitment.

Concerning social partnership, the tool of collective bargaining must be reinforced too. In the transition countries, as we are often called, bargaining at the workplace level is more of a tradition and more attention is paid to it than to bargaining at the national tripartite level. However, there is an increasing need for sectoral institutions and to begin with real work at the sectoral dialogue level. In economies where only a minority of the workforce is covered by collective agreements, concluded almost exclusively at the workplaces, sectoral bargaining is the way to go.

In Hungary, there are over 900,000 enterprises registered for 3.6 million labourers, and the collective agreements coverage is less than 45 per cent. Our endeavours presently have resulted in the setting up of 19 sectoral committees, with significant support from the European Union and the ILO. Accordingly, reinforcing workers' and employers' organizations, and empowering them at that level is a priority. The legal framework and the creation of functioning structures must be accompanied by motivating the social partners to cooperate in a meaningful way and work as real partners. In their work towards these goals, our region's social partners have been very well served and assisted by the ILO. The tasks ahead of us include capacity building and recognizing the use of dialogue, bargaining and partnership, and this Report gives ample arguments and ideas as to how to do that.

This is where we also express our hope that the Seventh European Regional Meeting in Budapest next February will move forward the ideas summed up in this present Report.

Mr. MAHADEVAN (*Workers' adviser, India*)

We really appreciate the Global Report which is analytical, informative and enlightening. We, of course, join others in congratulating the Director-General for this excellent Report. The Report reflects our view that in many countries there has been a growth in joblessness. There has been a jobless, senseless, fruitless, ruthless, futureless growth in many countries. And this is due to the privatization of profits and nationalization of losses. There has been an exit policy without a proposed entry policy. Unfortunately, direct foreign investments and loans are attached to labour law reforms, and curtail the right to organize and the right to strike. In fact, many of the proposed labour reforms aimed at promoting competition in our country's fishing sector do away with the so-called restrictive provisions that are, in fact, beneficial to workers. In fact, we believe that the right to collective bargaining includes the right to strike.

There are certain deficiencies in the enjoyment of this right which have led us to go to the Supreme Court of India. There has been a huge increase in the informal sector in recent years. We have been demanding a comprehensive law for the labour force groups who carry out 65 per cent of unorganized labour. However, there has been no two-way communication; all communication is one way. So agriculture labour laws will have to apply.

I would like to commend the ILO, which has got a role to play in the informal economy. There is a need for laws to regulate the informal economy.

The ILO should conduct research into existing laws. Data will have to be collected with regard to the informal economy in various countries, as well as with regard to social justice and social protection. We do not agree with the argument that there is no alternative. Everybody feels that there is no alternative but maybe there is one. In fact, the Director-General himself was present in Mumbai when we organized the World Social Forum. Alternatives were found and discussed. It is possible to make another world. In fact, in India, we have problems with two types of migrant labour. We receive migrant labour from various nearby countries who may come as refugees, etc. They are permanently present. In addition, we have been sending migrant labour to other places on a “permanently temporary” basis. I do not know how we can solve this problem because “permanently temporary” migrant workers do not have any rights in either country. Of course, on a lighter note, I can seriously say that migrant persons can even become prime minister in our country. That is the situation. Anyway, in India, we have the largest democracy.

As for the ILO’s role, I would like to conclude by saying that, following the recent elections, India has introduced the “common minimum programme”. We have made various suggestions to the Government. We have called for labour and land reforms, and for all of the important ILO Conventions to be ratified. The original labour law proposal that would involve the curtailment of rights must be withdrawn. There can be no such labour legislation.

We have held an assembly of trade unions in which both of the country’s trade unions participated. As a result of this assembly, a charter of workers’ rights was developed. This has become part of the new Government’s economic policy. In short, we would like profit for the people and not profit over the people. That should be the law. I think that this Report indicates that position. So finally, I would like to once again congratulate the Director-General for his Report on the follow-up process. Particularly with regard to the ILO, I would like to stress that some research must be carried out into the informal sector, in particular with regard to the legislation governing that sector. Data should be provided, on which we can base our future actions.

Ms. GENCIANOS (representative, Migrants Rights International)

It is with honour that I am addressing this plenary committee on behalf of Migrants Rights International, which is an international federation of migrant workers’ unions and associations, church-based groups, legal organizations and non-governmental organizations promoting the human rights of migrants.

This year’s discussion of the Global Report, under the follow-up to the ILO Declaration on Fundamental Principles and Rights and Work, focusing on freedom of association and collective bargaining, is but a timely and urgent response to the reality that migrant workers all over the world are faced with. The Report speaks of “the fundamental principle of freedom of association and the right to collective bargaining as a reflection of human dignity. It guarantees the ability of workers and employers to join and act together to defend not only their economic interests but also civil liberties such as the right to life, security, integrity and personal and collective

freedom. It guarantees protection against discrimination, interference and harassment”.

These same rights which are promoted through freedom of association and collective bargaining, are basic human and labour rights that should be guaranteed to every worker without discrimination of any kind. Unfortunately, however, in the case of migrant workers, the realities they face are different. Migrant workers are generally deprived of this right to freedom of association and collective bargaining, thereby contributing to their vulnerability as workers in a state of which they are not nationals. This issue has been clearly identified in the Global Report, confirming migrant workers as one of the groups often denied the right to organize, either in law or in practice. The Report also mentions domestic workers, including women migrant domestic workers and agricultural workers, as belonging to this category of workers facing barriers to freedom of association and collective bargaining. Moreover, the situation of irregular or undocumented migrant workers, and their exclusion in society, is of particular concern.

Migrants Rights International strongly believes that ensuring migrant workers’ right to freedom of association is a fundamental step towards the realization of their basic human and labour rights. Through organization and representation, migrant workers are able to bring out their concerns, identify violations, access channels for grievances and redress, and promote better protection. This right is guaranteed under 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). Complementing these ILO Conventions is the United Nations’ International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, which provides for the right of migrant workers and members of their families, including those who are undocumented, or in an irregular situation, to freely join and participate in the activities of trade unions and other associations.

Furthermore, we also note in the Global Report some of the identified best practices among trade unions in extending membership and representation to migrant workers, including those in irregular situations. This is an encouraging reflection of the strong commitment by trade unions to fighting racism and racial discrimination at work. We hope that this best practice could be widely promoted and implemented.

Therefore, in view of today’s discussion, we call on this tripartite body, the States and the social partners, to give serious consideration to the findings in and recommendations of the Global Report, in particular to the right of migrant workers to representation, organization and unionizing, and to work together to remove these restrictions, in both policy and practice, towards the achievement of this right.

Original French: Ms. O’Neill: (representative, World Organization Against Torture)

As regards this year’s excellent Global Report, *Organizing for social justice*, which deals mainly with the application of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), the

World Organization against Torture would like to raise certain crucial issues before this Conference concerning certain cases that have come before us.

Above all, the World Organization Against Torture is a network of 266 non-governmental, national or international organizations, that provide the international secretariat with information and request it to intervene particularly through urgent appeals made in response to violations of the most essential human rights, such as those that threaten the moral or physical well-being of individuals, or even their lives.

As is stressed by the Global Report, some progress has been made, but a great deal remains to be done on the road towards freedom of association and collective bargaining throughout the world. There is however one country, Colombia, where being a trade union leader is, of course, theoretically recognized in legislation but, in point of fact, these leaders are assassinated by hired killers or paramilitaries, who are not brought to justice.

As to the Government, it states that murders are on the decrease; we all rejoice for each life saved. The number of murders decreased in relation to 2002; however, in 2004 they are on the increase in relation to 2003. The number of urgent appeals we have received prove this. In other words, even the intolerable argument that the situation of trade unionists in Colombia is supposedly better because less of them were murdered this year than last year is already invalid. The problem, however, is not a question of the figures. For as long as even one death threat is issued and carried out, and while those issuing the threats, the murderers and those who provide the financing are not brought to justice, how can the defenders of workers' rights flourish in this country?

As regards the promises made by the Government to disarm the paramilitaries, these are nothing but a smokescreen. The facts speak for themselves. All the observers who have gone to Colombia and their numerous reports have shown that there is fundamental complicity between the paramilitaries and the army. The killing of a few paramilitaries are used as a cover, and the daily reality has shown this to be true.

(The speaker was interrupted.)

Mr. Potter (*Employers' delegate, United States, speaking on behalf of the Employers' group*)

I probably let this go on too long. There is another place in the house where we discuss these kinds of facts. This is not really relevant. This is just a case against one country. This is not a global appreciation and I think it is inappropriate. The Government is not even in the room. So I would ask the speaker to focus more generally on the issues for which her organization has competence.

Ms. O'Neill (*representative, World Organization Against Torture*)

It would be desirable for this Conference to think about certain coincidences, for example, the fact that some of the victims of murder attempts belong to trade unions such as the Single Confederation of Workers of Colombia (CUT) and the Workers' Trade Union (USO). The most vicious conflicts have lined the trade unions up against the state enterprises in liquidation such as Telecom and Ecopetrol.

Ms. SAJIDA (*representative, Migrants Forum in Asia*)

This intervention is being made on behalf of the Migrant Forum in Asia, a network of over 200 migrant workers' associations and trade unions, and migrant support groups based in 22 Asian countries. The Global Report *Organizing for social justice* highlights the growing socio-economic role of the domestic workers' sector in the current labour market.

Moreover, as decided in footnote No. 57 in the Report, "It is symptomatic that all of the Global Reports dealing with the four categories of fundamental rights have singled out domestic workers as one of the groups of workers which are significantly affected by a rights deficit." With this in mind, and in consideration of a multilateral framework on the management of migration from a rights-based perspective, it is imperative that the ILO works effectively to bring domestic work out of the twilight zone it currently occupies within market and non-market relations.

We note with deep concern that, in many countries, domestic work has yet to be recognized as work. The implication of this includes non-coverage of domestic work and the national labour legislation, human and labour rights violation and, most importantly, denial of the fundamental right to organize and collective bargaining.

The Report rightly emphasized that "the organization of domestic workers is a key tool in combating the violations of all the fundamental principles and rights at work, including in respect of freedom from forced labour and non-discrimination". Furthermore, the Report draws attention to the fact that "in sectors where workers are well unionized and labour standards on working hours, health and safety, wages and employment contracts are not only set but also enforced"; there is virtually no demand for forced and traffic labour.

The challenge the Report puts before us today is to recognize that "organizing domestic workers requires innovative strategies and approaches". We are happy to note the Report's citation of examples where migrant and domestic workers have successfully organized themselves such as the Indonesian Migrant Workers' Union in Hong Kong, China, established in 1999 as the first grassroots-based union of Indonesian migrant women domestic workers.

As Hong Kong labour legislation provides migrant women domestic workers with equal treatment, including the right to unionize, the Indonesian migrant workers in Hong Kong enjoy the structural conditions necessary for their self-organization and representation.

Union women members not only engage in policy dialogue with the Hong Kong Government but they have been invited by the Indonesian parliament to debate on the formulation of national migration legislation. They have been therefore recognized as partners in policy formulation.

We reiterate the Report's statement that "the fundamental principles of freedom of association and the right to collective bargaining is a reflection of human dignity". While recognizing their positive social and economic contribution to society, we urge the ILO and its social partners to promote the following measures and principles consistent with the ILO and UN standards to ensure that migrant women domestic workers are provided with decent living and working conditions.

(Mr. Ray Guevara takes the Chair.)

Mr. POTTER (*Employers' delegate, United States, speaking on behalf of the Employers' group*)

The Global Report is the public face of the Declaration on a broad scale. The Global Report is essentially based on a principle-by-principle approach where it all comes together. It is a global view of all countries and trends, regardless of whether the countries have ratified the fundamental Conventions or not.

Today we had, if I counted correctly, 47 speakers – 25 were Governments. I believe that those are lower numbers than any preceding year. If my numbers are correct, there are approximately 165 countries registered at the Conference, which means that approximately 15 per cent of the Governments who have made a commitment to the Declaration actually spoke here today. Obviously, this is disappointing. It seems to us that there might be some value if the Office were to look at this year's participation rate and who participated compared to prior years, to see if there is some trend or some conclusions that might be drawn from this.

I would suggest that the Office should look at it from a variety of angles and perhaps there may be a need for a further discussion of this in the Governing Body.

Certainly, the participation of governments is voluntary, but we would ask the question, how is the overall reality of the Members' commitment to the Declaration to be evaluated if we do not have broad-based participation in this Global Report debate?

Part of the purpose of the Global Report follow-up is to serve as a basis for assessing the effectiveness of the assistance provided by the ILO and for determining priorities for future action. We did have some indications on both scores here today but I think that the Office has quite a challenge in front of it, if it is going to come up with a comprehensive assessment and determination of priorities in line with the request made by the Governing Body's Committee on Technical Cooperation in November 2000.

To end on a somewhat positive note, I would say that, while we still have some great distance to go, even with the lower participation rate, fundamentally, this was a better interactive discussion than we have had in the past. It is still the case, though, that several Governments did not give us any really concrete information as to how they are seeking to promote and realize their commitments under the Declaration.

We suggest that some thought be given to putting something at the very beginning of future Global Reports that would give some indication of the kinds of information that Governments might consider providing and that would be of use. We do not have any particular items to suggest today but we do think that, if there was some prominent box of some sort, that that might well stimulate Governments to provide useful information that would help to further the achievements of the goals in the Global Report and the Declaration.

Sir Roy TROTMAN (*Workers' delegate, Barbados, speaking on behalf of the Workers' group*)

We wish to thank those of you who have stuck with this debate through the many hours we have been here. Of course, we commiserate with you,

Mr. President, and with your colleagues, with those on the platform and with the staff as well as with the interpreters and the technicians who have had to put up with us.

Our debate today did not answer all of our questions, but it represents an effort to do different things as well as an effort to do all things differently. We salute Mr. Potter and the other lead speakers that we have had but, like him, we are of the view that we did not get the benefit of as many Governments as we should have liked to have. I would wish to say, though, that our group was impressed to see the number of Governments from the Arab States which took the time out and came to express their views regarding where they would like to see this matter go and, if you were to remove them, then the ratio would become all the worse for us to look at, and it might be good for us to be able to look at last year versus this year to see who is coming and to try to find out where there is a correlation between the subject that is discussed and the governments that attend. I believe that the result might be very interesting for us in terms of what, really, we can believe is the seriousness of our involvement in the work of the Organization.

Of course, I am not here to judge. I read a book, I still read it, that says I should judge not lest I also be judged. But at the same time, I think that we can analyse things for ourselves and arrive at certain answers from time to time.

We would wish to say that there are, as the Director-General said, still far too many obstacles to organizing and that there is, from our position, a need for the Committee on Technical Cooperation to be called into action and to be used significantly more for promotion because we believe that if the technical cooperation and the funding which goes with it were able to use that facility, it might be better able to promote these core Conventions in a much more meaningful manner.

We think we should make a comment or two regarding some of the things which we heard today before we finally wrap up.

We heard the position given by the chief spokesperson for the Gulf States, who came from the United Arab Emirates, and we would wish to say that we would want to compliment the region for the reported work which we have. We think it's a welcome step that they have given to us in their report but we hope that they would not consider it to be an end in itself, nor that they would consider that we have reached the end of the line.

For example, we have heard about workers' committees and, naturally, they are quite obviously trying to move in the direction of experiencing freedom of association and the right to bargain collectively, but I think that more steps need to be taken to promote that freedom of association and to promote the right to collective bargaining and to make sure that they are not merely incorporated in laws and regulations but rather in practice for implementation. Furthermore, this should be a right not only for nationals, but nationals have to recognize that migrants also need to be able to benefit from this and that there should be some universality in the application of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98).

We are hoping that not merely these countries but that all countries would recognize the need for de-

mocratic participation and for accountability and transparency in the way that they approach the questions of Conventions Nos. 87 and 98.

We say the need for transparency, because every government that has spoken has talked in very glowing terms about the way governments across the whole world promote, advocate and implement all of the issues that relate to Conventions Nos. 87 and 98. Yet, employers are complaining about the absence of free associations of workers' organizations almost as much as workers are complaining about the particular absence of free associations of employers' organizations. So, there must be some transparency gap.

What there has to be, is a more meaningful dialogue between themselves and ourselves and I would think that it is something that has to be explored between now and November, when there is the interactive session and the consultation. And I would like to believe that we would be able to call "a spade a spade" and that the diplomacy within the house would not make us want to call it by some other name which makes it less identifiable in the circumstances.

Machinery has to be explored here to assist in speeding up the ratification of Convention No. 87 and in having have the consequential legislation which is necessary.

We heard from our own side, Sister Ursula Engelen Kefer, making the very strong point that sometimes the barriers which are put in position are barriers which prevent speedy resolution of those matters. We are of the view as, I am sure, is the Chairperson, that justice delayed is justice denied. If you deliberately delay an individual's efforts to pursue freedom of association, which we have all accepted today – perhaps because the Director-General said that it is a very natural expectation – if we deny that, then we are denying justice. I do not think that anymore, be they governments, employers or workers, should be in the business of denying people a fundamental and a basic right.

Machinery also has to be set in place to train and to support capacity building, so that we can satisfy the responsibility of all three of the partners – the government and the social partners – under Convention No. 98.

It is not enough for us to be satisfied that there is freedom to associate without understanding that Convention No. 87, without Convention No. 98, is a denial of the fundamental right of the worker. If we look at the indices towards the back of the report, we will see that there are not large numbers, but there is too large a number of countries which have ratified Convention No. 87, but have failed to ratify Convention No. 98.

This is a contradiction in terms because if you have one, you have to set in place the training, the support and the capacity building that are necessary to make sure that the logical progression from association to speaking for yourself takes place. Any government that denies this, any employer that denies it, any workers' organization that denies it, is a wrong association, or a true association doing something that is wrong.

We think that under this particular umbrella, regions can do a lot for their members and for each other. They can assist themselves by visiting those areas where there are good examples to be followed. You heard Trinidad and Tobago speak about how well they are doing, we had the splendid ex-

ample given by New Zealand; we had an example given by the Australian Employers' delegate. Within our regions we ought to be able to find examples which we can follow; it does not always need to be the ILO itself that has to do it. We can learn not merely by reading books, but by visiting, and I believe that the host countries might be willing to accommodate us in those areas.

There must also be machinery to speed the process from organizing to recognition and from recognition to collective bargaining. This process has to be speeded up and the ILO has to be able to help us, but individual governments have got to be able to have their labour departments and labour administration departments help as well.

There are two things further that I wish to say. The Australian Employers' delegate said that when one looks at the summary of reports, one finds that there is in fact no problem with organizing because only small numbers of people claim interference.

Well, before he said it I had anticipated it and had told the President that there are large numbers of people who refuse to report because they say that when they report, nobody does anything about it. It is like the people in some countries who refuse to look for work any more whose argument is – "I have been looking for work for five or six years and I get the same answer all the time, so, why should I look for work any more?" They become what the economists call "voluntarily idle". I am not too sure what it means: when you are looking for work and you cannot find it, you stop; I do not think that you are voluntarily idle, you are frustrated. But, I think that it is part of the position which I would like to put forward: the paucity of reporting does not mean that there are no problems.

We in the labour movement have far too many examples of extreme harassment and denial; we do not want the beauty of the room and the ambiance that Mr. Potter spoke about to lull us into a sense of complacency.

Finally, I would like to refer to what the Employers' adviser, Mr. Anand, said when he spoke of a "minority plea". But if he held a minority position, he did not verbalize it, because when he speaks about Convention No. 87, then goes on to speak about poverty anywhere constituting a danger to prosperity everywhere, he is in fact representing all of what we understand Convention No. 87 to be leading towards. We believe that Conventions Nos. 87 and 98 are crucial for obtaining the tools to create wealth for everyone, so that we can share wealth among all. We do not want Mr. Anand to leave the room and retire feeling that he stands alone. We want him to know that we all stand together: we want the world to create more wealth, but for the world to share that wealth. In the words of my Indian colleague, we must not have a situation where there is wealth taken by the few and there is poverty shared by the whole nation.

We have enjoyed participating in this discussion. However, we think that there is more work to be done and we hope that this will be done at some time in September or October.

Original Spanish: The PRESIDENT (Mr. RAY GUEVARA)

The time has come to conclude our work on the discussion of the Global Report. It is my great pleasure to be able to confirm that our objective, that is, to obtain information and ideas for develop-

ing a plan of action through an interactive discussion has been very successful.

More than 60 speakers have unanimously highlighted the importance of thought and action with regard to freedom of association and the effective recognition of collective bargaining as a key means of ensuring social justice – an objective that is called for in the Constitution of our Organization. These principles underlie a state of law and it is, therefore, essential to ensure their application. While much still remains to be done in order to ensure the full application of these rights, there has, nonetheless, been a great deal of progress towards making the need for economic development compatible with the need to guarantee social rights.

The new productive sectors and the most vulnerable groups have been unequivocally identified as the subject of future work. Export processing zones, agriculture, the domestic sector and the public sector are the areas where we need to redouble our efforts and where the failure to apply these principles is most notable.

Collective bargaining and social dialogue have today been reconfirmed as being the highest example of the right to organize and freedom of association. They must therefore be adapted to the needs of economic progress and social reality, along with the traditional but no less important issues of equality,

productivity and the application of new technologies.

The efforts that have been identified by Governments, Employers and Workers are considerable, but our task is not yet finished. International solidarity, as the necessary framework for attaining social justice, is indispensable and it is for that reason that the wealthiest countries should, in addition to fully respecting their commitments under the Declaration and support those who request their cooperation in order to ensure that rights and experiences can be shared, and make the principles we have been discussing today a reality.

We need to work for social justice, as has been recognized.

It is only with strong commitment from everyone and a firm belief in our purpose that we will be able to achieve this.

I would like to thank Mr. Tapiola, Mr. Damen, Mr. Attigbe, and all of the technicians who have assisted us, the interpreters as well as all the staff members who have given us their generous and enthusiastic support today. I would also like to congratulate those of you who are in the room and those who have already left the room, for your firm commitment, your involvement and dedication. You are heroes of decent work.

(The Conference adjourned at 6.45 p.m.)

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