



**Sixth item on the agenda:
Recurrent discussion under
the ILO Declaration on Social
Justice for a Fair Globalization
and the follow-up to the ILO
Declaration on Fundamental
Principles and Rights at Work**

**Report of the Committee for the Recurrent
Discussion on the Strategic Objective
of Fundamental Principles and
Rights at Work**

1. The Committee for the Recurrent Discussion on the Strategic Objective of Fundamental Principles and Rights at Work, set up by the Conference at its first sitting on 30 May 2012, initially consisted of 147 members (75 Government members, 20 Employer members and 52 Worker members). To achieve equality of strength, each Government member entitled to vote was allotted 52 votes, each Employer member 195 votes and each Worker member 75 votes. The composition of the Committee was modified five times during the session and the number of votes attributed to each member adjusted accordingly.¹

¹ The modifications were as follows:

- (a) 30 May morning: 147 members (75 Government members with 52 votes each, 20 Employer members with 195 votes each and 52 Worker members with 75 votes each);
- (b) 30 May afternoon: 152 members (74 Government members with 56 votes each, 21 Employer members with 200 votes each and 56 Worker members with 75 votes each);
- (c) 31 May morning: 176 members (94 Government members with 348 votes each, 24 Employer members with 1,363 votes each and 58 Worker members with 564 votes each);
- (d) 31 May afternoon: 178 members (94 Government members with 60 votes each, 24 Employer members with 235 votes each and 60 Worker members with 94 votes each);

2. The Committee elected its Officers at its first sitting as follows:

- Chairperson:* Mr G. Vines (Government member, Australia)
- Vice-Chairpersons:* Mr E. Potter (Employer member, United States) and
Mr Y. Veyrier (Worker member, France)
- Reporter:* Ms V.L. Ribeiro de Albuquerque (Government member,
Brazil) at its seventh sitting.

3. At its seventh sitting, the Committee appointed a Drafting Group to draw up draft conclusions based on views expressed during the plenary discussions, for consideration by the Committee. The Drafting Group was chaired by the Chairperson of the Committee, and was composed of eight Employer members, eight Worker members, and eight Government members. The members appointed were: Ms Agnete Andersen (Government member, Denmark), Ms Joan Barrett (Government member, United States), Mr Marc Boisnel (Government member, France), Mr Kakoma Chivunda (Government member, Zambia), Mr Dongwen Duan (Government member, China), Mr Michael Hobby (Government member, New Zealand), Mr André Misi (Government member, Brazil), Mr Langton Ngorima (Government member, Zimbabwe), Ms Seyda Aktekin (Employer member, Turkey), Ms Jung-Yeon Bae (Employer member, Republic of Korea), Mr Alex Frimpong (Employer member, Ghana), Ms Adriana Giutini (Employer member, Brazil), Mr Emmanuel Julien (Employer member, France), Ms Anita Mishra (Employer member, United Kingdom), Mr Tim Parkhouse (Employer member, Namibia), Mr Ed Potter (Employer member, United States), Ms Annick Desjardins (Worker member, Canada), Mr Sam Gurney (Worker member, United Kingdom), Ms Ged Kearney (Worker member, Australia), Ms Marie-Louise Knuppert (Worker member, Denmark), Mr Bheki Ntshalintshali (Worker member, South Africa), Ms Dijana Šobota (Worker member, Croatia), Mr Yves Veyrier (Worker member, France) and Mr Leonardo Guimaraes Vieira (Worker member, Brazil).

4. The Committee had before it Report VI, entitled *Fundamental principles and rights at work: From commitment to action*, prepared by the International Labour Office for a recurrent discussion of the sixth item on the agenda: “A recurrent discussion on the strategic objective of fundamental principles and rights at work” under the ILO Declaration on Social Justice for a Fair Globalization and the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work.

- (e) 1 June morning–afternoon: 171 members (97 Government members with 644 votes each, 28 Employer members with 2,231 votes each and 46 Worker members with 1,358 votes each);
- (f) 2 June morning: 141 members (101 Government members with 351 votes each, 27 Employer members with 1,313 votes each and 13 Worker members with 2,727 votes each);
- (g) 7 June morning–afternoon: 119 members (103 Government members with 55 votes each, 5 Employer members with 1,133 votes each and 11 Worker members with 515 votes each);
- (h) 8 June morning–afternoon: 119 members (103 Government members with 55 votes each, 5 Employer members with 1,133 votes each and 11 Worker members with 515 votes each);
- (i) 11 June morning: 119 members (103 Government members with 55 votes each, 5 Employer members with 1,133 votes each and 11 Worker members with 515 votes each).

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5. The Committee held 12 sittings.

Introduction

6. In his opening statement, the Chairperson underlined the critical role of fundamental principles and rights at work (FPRW) to the mandate of the Organization. The Committee provided an excellent opportunity to review the role, needs and priorities of governments and social partners on this strategic objective of the Organization, as a way of providing effective guidance to the Office on its future work.
7. The representative of the Secretary-General (Mr Guy Ryder) noted that the present Committee was the first recurrent discussion on the strategic objective of fundamental principles and rights at work, at the intersection of two ILO landmark Declarations: the ILO Declaration on Fundamental Principles and Rights at Work (1998) and the ILO Declaration on Social Justice for a Fair Globalization (2008), following recurrent discussions on two other ILO strategic objectives in 2010 (employment) and 2011 (social protection). The Committee presented a further opportunity to explore the interaction and coherence of these FPRW, which together were crucial for the ILO's mandate. The discussion was based on three axes. First, it concerned the role of the ILO in defending and advancing the four categories of fundamental principles and rights namely freedom of association, forced labour, child labour and the elimination of discrimination in employment and occupation. Second, it provided an opportunity to consider how these principles and rights assisted in mitigating and overcoming the current economic crisis. Third, it could be a basis for determining ILO priorities and action in the future. The ILO had always defended and advanced FPRW. Nonetheless, the two Declarations gave new vigour to the ILO's action in the context of globalization. The four categories of principles and rights set out in the 1998 Declaration – freedom of association and the right to collective bargaining; elimination of all forms of forced or compulsory labour; effective abolition of child labour; and elimination of discrimination in employment and occupation – ensured that progress in market integration and economic growth went hand-in-hand with social progress. The 2008 Declaration confirmed the centrality of these principles and rights in the broader context of the decent work and social justice agenda.
8. The representative of the Secretary-General remarked that much had been achieved, especially in terms of universal commitment to FPRW, as exemplified by the global rate of ratification of the fundamental Conventions, which currently stood at over 90 per cent. ILO Members had undertaken action to promote these principles and rights at the national level: numerous legislative reforms and national policies had been implemented with real impact. For example: there were fewer countries than ever where all forms of genuine workers' organizations were banned or where imposed trade union monopolies still existed; there were fewer countries where forced labour was imposed by the State; there had been a global decrease in the number of child labourers; and there was a clear trend of countries expanding their list of prohibited grounds for discrimination. ILO Members' actions to improve the implementation of FPRW had been supported by ILO technical cooperation activities, including IPEC and DECLARATION. The adoption of the 1998 Declaration and the subsequent combined efforts undertaken by the ILO and its Members had led to widespread recognition of FPRW in other forums, including the commitment by the G20 leaders to promote and ensure full respect of FPRW at the Cannes Summit in 2011. It was important to highlight the ILO's unchallenged authority on FPRW, the institutional legitimacy of these principles and rights in the two ILO Declarations, the numerous efforts undertaken by ILO Members to implement FPRW, and ILO activities to further their universal application, which enhanced the growing recognition of the important role of FPRW in achieving a fair globalization.

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- 9.** The current global context posed significant challenges to the realization of FPRW, notably concerning the universal recognition of freedom of association and collective bargaining, the large informal economy (where most violations of these principles and rights occurred) and the obstacles to the effective enforcement of FPRW at the national level. New questions had arisen as a consequence of the increased flexibility of labour markets, and the financial and economic crisis was putting unprecedented pressure on the protection of workers' rights. Nevertheless, there were opportunities to make progress, notably through the recent movements towards democratic change. Limitations remained in terms of widening social inequalities, degradation of the environment and unsustainable economic growth, persistence of the jobs crisis and the uneven burden of the crisis. There was a growing recognition that the costs of inaction were high, while the benefits of making globalization fairer, greener and more sustainable were significant. The ILO should continue to take full part in the initiatives proposed in various forums to implement coordinated policy actions, promoting the role of these actions in moving towards a fair globalization.
 - 10.** The recurrent discussion offered a unique opportunity to move from commitment to action on FPRW by building on the achievements of the two Declarations, enabling full and frank tripartite discussions on trends in order to determine future priorities for the ILO and member States' action so as to meet the Members' needs as regards these principles and rights. The action plan would anticipate the next recurrent discussion on FPRW in 2016. The work of the Committee should include interaction with the Committee on the Application of Standards (the General Survey and the related tripartite discussion in the Standards Committee should enable the present Committee to assess the ILO's standards-related action and propose priorities for action), and interventions from ILO Executive Directors on how action taken by the Office on the other three strategic objectives contributed to the promotion of FPRW and how far they had integrated the "enabling" function of these principles and rights in the full realization of the other strategic objectives.
 - 11.** The Committee's discussion was structured around five points for discussion: FPRW and a fair globalization; universal application of FPRW, including extending the ratification of the eight fundamental Conventions to cover a greater proportion of the world's population; effective realization and enforcement of these principles and rights at the national level; enhanced mobilization and coordination of ILO means of action on FPRW; and initiatives addressing these principles and rights through multilateral organizations, trade arrangements, private voluntary initiatives and transnational labour relations. The recurrent discussion should enable the ILO and its constituents to ensure that in the context of the current social and economic challenges, FPRW were part of strategies to remedy the crisis and that further progress would be made towards their full and universal respect. The Conference should take into account changes in the world of work and in labour markets in order to ensure that adequate instruments were available to apply these principles and rights. Achieving this objective required greater coherence and coordination of all the ILO's means of action, with a stronger integration between the ILO's four strategic objectives. Avenues to foster and operationalize the role granted to FPRW in the international arena also needed to be devised, both as a key pillar of the development agenda and as part of the governance of the global economy.
 - 12.** A representative of the ILO's Programme for the Promotion of the Declaration of Fundamental Principles and Rights at Work (Ms Beate Andrees) presented the newly released global estimates on forced labour, as a preview of a public launch that would take place on Friday, 1 June. The new estimates were considered to be conservative and should not be compared with earlier ILO estimates. There were currently 20.9 million persons in forced labour, the majority (90 per cent) of whom were exploited in the private economy, including for labour exploitation and sexual exploitation. State-imposed forced labour,

including forced labour in prisons and the military, accounted for 10 per cent. In absolute numbers, Asia and the Pacific accounted for the largest number of forced labourers (11.7 million), followed by Africa (3.7 million), Latin America and the Caribbean (1.8 million), Central, South Eastern Europe and the Commonwealth of Independent States (CSEE, 1.6 million), the Developed Economies and the European Union (EU) (1.5 million) and the Middle East (0.6 million). The prevalence rate was highest in the CSEE and lowest in Developed Economies and the EU. Women and girls represented a majority (55 per cent) and children accounted for one quarter of all victims.

General discussion

13. An Employer member from France (Mr Julien), speaking for the Employers' group, recalled that the objective of the 2008 Declaration was to create a new logic in the analysis applied for guiding the Office's actions. The constituents' intention was to ensure that ILO actions and proposals were based on the needs of its member States. To this end, any recurrent discussion needed to first analyse the needs, based on a better understanding of the realities of the constituents. However, he regretted that an analysis of the realities and needs of constituents was missing from the report, and insisted that future recurrent item reports should include such information.
14. The Employer Vice-Chairperson referred to the 1998 Declaration, recalling its path-breaking importance and hoped that the recurrent discussion would result in action by the ILO and its member States towards the realization of FPRW. The 1998 Declaration encompassed the principles concerning fundamental rights on freedom of association and collective bargaining, forced labour, child labour and discrimination, contained in the eight fundamental Conventions. These were commitments that nations took on by virtue of their membership in the ILO. The Declaration was a universal recognition of the fundamental decency below which no civilized nation in the ILO should fall. However, the principles and rights of the Declaration were not as detailed as the fundamental Conventions, nor did the Declaration impose on member States the detailed obligations of Conventions that they had not ratified, nor did it impose the ILO supervisory mechanisms that applied to ratified Conventions on these countries. The fundamental principles and rights encompassed the essence of the Conventions, namely their goals, objectives and aims. The concept of FPRW under the Declaration was also broader than the detailed principles applied by the Committee on Freedom of Association. In the context of FPRW, the concern should be that member States were working towards achieving the policy objectives and goals of the fundamental Conventions. However, at bottom, this concerned the States' duty to protect all human rights.
15. Fourteen years after the 1998 Declaration, it was time to take stock of where the ILO stood. The gap between aspirations and reality was of great concern, although the topic of FPRW was receiving increasing attention beyond the ILO, including in the G20 process, in the UN Guiding Principles on Business and Human Rights and in voluntary codes of conduct implemented by individual enterprises. As set out in the 2008 Declaration, the purpose of the recurrent item was to understand the realities and needs of member States with respect to each strategic objective in order to respond more effectively to them, using all means of action at the disposal of the ILO, and to adjust priorities and programmes accordingly; and to assess the results of the ILO's activities in view of informing governance decisions.
16. The report before the Committee should have taken the action plans resulting from the Global Reports under the 1998 Declaration as its starting point and focus. Most importantly, States should be able to respect, promote and realize the principles concerning FPRW, which were human rights. Each member State had a duty to protect its citizens and

all who work within its borders. Consequently, any action plans prepared by the Committee should focus on realizing these principles and rights, rather than on ratification; and this should encompass both ratifying and non-ratifying countries.

- 17.** As the ILO implementation programme 2010–11 report had stressed, technical cooperation and capacity building were crucial for the implementation of labour standards, and this should be taken into consideration in the action plan adopted by the Conference. The action plan should be based on the four categories of FPRW, the decisions of the Governing Body and previous Conference discussions. It should initially operate under the Strategic Policy Framework 2010–15 and the Programme and Budget for 2012–13. The Governing Body should examine how the action plan would fit into the programme and budget framework, while the preparation of the Programme and Budget for 2014–15 should focus on ensuring adequate funding for the promotion of the fundamental principles and rights, through the regular budget and increased donor support. Improvement was needed in data collection, analysis, technical assistance and targets. Country baselines should include national practice in addition to legislation, and ILO analysis should look at gaps between practice and FPRW, as well as indicating related progress in their promotion and realization. Tools and processes should be developed to ensure that this information resulted in technical assistance corresponding to needs. Overall, the action plan should address root causes of weak implementation of FPRW, including in the informal economy.
- 18.** With regard to the first point for discussion, the Employer Vice-Chairperson stressed that the recurrent item discussion was of utmost importance because achieving FPRW was essential in achieving social justice for all. The full potential of FPRW still needed to be unleashed. Each Member should tell the ILO what steps it had taken to achieve FPRW each year. This would not require a new agenda for ILO action to be developed, but rather within existing initiatives, the focus should be redirected to the real promotion of the objectives of the 1998 Declaration. In this regard, the adoption of any new standards supplementing the fundamental Conventions or in controversial areas would only dissipate energy and distract constituents from realizing FPRW. Instead, work on FPRW should be stepped up, including in the informal economy. Clear technical cooperation targets should be set and funding for FPRW ensured, with objective and clear evaluation criteria for monitoring their implementation. Greater support was required in ILO action with social partner organizations.
- 19.** On the second point, the Employer Vice-Chairperson argued that the ratification campaign would do little to change the position of non-ratifying countries. More important than universal ratification was the actual achievements of the goals of the 1998 Declaration. The focus should therefore be to reinforce activities under that Declaration rather than on the ratification campaign. Regarding the third point, he stated that the realization of FPRW required that all human rights were protected in society, both in the formal and informal economy. States had to protect all human rights set out in the 1948 Universal Declaration of Human Rights. However, this could not be achieved without a well-funded national labour administration, adequate and serious labour inspection, and an independent judiciary. States should prioritize establishing and maintaining such institutions and ILO action should emphasize related capacity building. FPRW needed to be incorporated in overall national agendas for human rights protection. The ILO should look at opportunities beyond its four walls such as the UN Global Compact and the Working Group of the UN Human Rights Council, following up on the Guiding Principles on Business and Human Rights. As a priority under the 1998 Declaration, the Office should also step up work on the informal economy, which had the largest number of marginalized workers; build the capacity of social partners and ensure sufficient funding for ACT/EMP and ACTRAV and their involvement in capacity-building work.

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20. Regarding the fourth point, he stated that the Office had received clear guidance on priorities through the existing action plans. However, the report did not outline the state of play on implementation. There was room for synergy between action plans and the activities under each of them should be better coordinated. During the first recurrent item discussion in 2010, the Employers' group had stated that synergies among the four strategic objectives could be achieved by putting economic growth and employment at the heart of the work of the ILO. The employers looked for modernizing standards policies to take into account the changing realities in the workplace. International labour standards should not be a barrier to achieving FPRW. On the fifth point, the Employer Vice-Chairperson stated that the action plan coming out of the discussion should focus on States' obligations to implement human rights, while the role of the ILO as regards corporate social responsibility (CSR), international framework agreements (IFAs) and trade agreements should not be a focus.
21. The Employer Vice-Chairperson stated that, with the 1998 Declaration, the ILO had reaffirmed to the world in the twenty-first century that they held those truths to be self-evident that all working men and women and their employers from all regions of the earth in freedom of association should be free from forced labour and discrimination and that their children should be free from inappropriate child labour. He concluded by stating that, by virtue of their membership in the ILO, member States and their constituents in the pursuit of social justice believed that those were the essential values, principles and rights to which they held themselves and each other accountable then and in the global economy of the twenty-first century.
22. The Worker Vice-Chairperson stressed that the Committee's discussion was extremely important for the world of work, the international community and the future of the ILO, as well as for its role as conscience and player for social justice in the world. Respect for FPRW and human rights more generally was the essence and goal of societies, and this needed to be reaffirmed especially in times of crisis. FPRW contributed to the redistribution of income and the creation of demand that the global economy, the real economy, needed. Countries with systems of social protection and collective bargaining had been better equipped to resist the crisis. Moreover, there could be no sustainable recovery from the crisis based on weakening of FPRW, nor should these rights and principles be a luxury of rich countries. Respect for FPRW ensured that economic development was fair and equitable. The adoption of the 1998 Declaration and its follow-up represented a major landmark for the ILO and, with the 2008 Declaration, the Organization reaffirmed the relevance and need to implement FPRW, as well as their importance as rights and necessary conditions for achieving the strategic objectives. The 2008 Declaration also reaffirmed the ILO's mandate on social justice in the UN system. The Declaration's spirit was at the very heart of the campaign for promoting ratification of fundamental Conventions, which had currently achieved a ratification of over 90 per cent. While in 2001, there had been 47 ILO member States that had ratified all eight fundamental Conventions, the same number stood at 135 presently. For the period between 2004 and 2011, the Committee of Experts on the Application of Conventions and Recommendations (CEACR) had noted 1,178 cases of progress in the application of the fundamental Conventions. The impact of the CEACR's comments on national courts and regional human rights courts had been remarkable. It was impossible not to acknowledge that the aspiration for freedom of association and fundamental rights at work had contributed to democratic progress in some member States overcoming dictatorship. These developments highlighted the importance of the ILO's action and called for a renewed sense of responsibility for the realization of the objectives of the 1998 and 2008 Declarations. The follow-up and supervisory mechanisms should be strengthened to guide the ILO's action.

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- 23.** In highlighting that the current crisis could jeopardize the successful achievements reached so far, the Office report rang an alarm bell. Reversing this path, which could otherwise affect the credibility of the ILO, was thus crucial. The objective of universal ratification by 2015 should continue to be pursued, as it was very close to being reached regarding some Conventions. However, Convention No. 87 had the lowest number of ratifications, and more than half of the world population lived in countries that had ratified neither Convention No. 87 nor Convention No. 98. Moreover, some members of the G20 were among those not having done so, and ratifications by these countries would send a message of hope and show leadership by example. With regard to effective enjoyment of FPRW, much more needed to be done. As documented in the International Trade Union Confederation's (ITUC) annual report cited in the Office report, assassination, detention and dismissal of trade union representatives continued. Certain categories of workers were excluded from national labour legislation. Discrimination against trade unionists showed no sign of decreasing, as evidenced by the number of cases examined between 2007 and 2011 by the Committee on Freedom of Association. Freedom of association was fundamental to the ILO's existence, as it formed the basis for the participation of employers' and workers' organizations. Any violation of this principle in respect of one of the constituents should be considered as affecting all of them.
- 24.** In many countries measures to strengthen labour administration, labour inspection and labour courts were needed. The Workers' group would examine with interest the suggestion regarding a possible new standard on labour dispute settlement. In parallel, there was a need to allocate more resources to technical assistance programmes in the field of freedom of association and collective bargaining. This was of particular importance since these rights, provided for in Conventions Nos 87 and 98, are enabling rights for the achievement of other rights at work.
- 25.** An urgent matter was the situation of right to collective bargaining in Europe, where reforms undertaken under the International Monetary Fund (IMF) and other EU institutions aimed at reducing the scope of collective bargaining, limited the independence of social partners and replaced centralized negotiation with negotiation at the company level. As noted by the Office report, collective bargaining coverage had declined in some countries, due largely to deregulation, the decentralization of bargaining and a rollback in public policy support for collective bargaining. He emphasized that this was far from the Global Jobs Pact adopted in 2009 as a response to the crisis, and that such developments taking place in Europe was worrying. The present situation called for a systematic and proactive role of the Office in international and regional forums and in ILO member States to advance the promotion of rights at work. There was need to implement the tripartite mandate entrusted to the ILO in 1944 by the Declaration of Philadelphia and reaffirmed in the 2008 Declaration, requiring the ILO to examine the policies of international financial institutions, as well as multilateral and bilateral trade policies in the light of the objective of social justice. A new mechanism could enable the member States to request the ILO to evaluate the impact on FPRW of programmes proposed by other organizations. Furthermore, Decent Work Country Programmes (DWCPs) should include FPRW as well as other rights in a better way.
- 26.** The Worker Vice-Chairperson stressed that achieving universal ratification of Convention No. 29, which was almost complete, would be a mark of the effectiveness of the ILO within the multilateral system and should be an objective. He suggested examining appropriate policies and instruments that could reinforce the Convention and offer effective protection and rights to victims, working with the social partners, the legal system and the labour inspectorate. The forced labour figures that the Office had presented to the Committee showed that huge efforts still needed to be made. Child labour remained a topic of serious concern. Progress in eliminating the worst forms of child labour might be slowing or even reversing because of the global crisis, and there was a risk that the 2016

deadline would not be met. Economic growth and redistributive policies to fight poverty were essential in this regard, as was the role of labour administration and labour inspection, and primary and secondary education, and, by extension, also social dialogue and collective bargaining.

- 27.** The Worker Vice-Chairperson congratulated the Office for the promotional campaign and the work of the supervisory bodies in making substantial progress towards the elimination of discrimination, visible particularly through the adoption of legislation. This was another area where universal ratification was within reach. However, here again the crisis had a perverse effect on these successes. Measures were being put in place under the pretext of the crisis that were xenophobic and racist, affecting migrant workers in particular; there was also increasing discrimination against workers with disabilities and workers who were or were presumed to be living with HIV, as well as the growing phenomenon of multiple discrimination and discrimination related to maternity. The gender pay gap was another critical area of work, as was the vulnerable situation of women during the crisis, and the gender dimension in the fight against child labour and forced labour. He recalled paragraph 247 of the report which referred to the Committee of Experts' report of 1996, calling for the consideration of an instrument which, in addition to extending the prohibited grounds for discrimination, would permit a change in the burden of proof with regard to allegations of discrimination.
- 28.** The employment relationship was highlighted in the report as an important factor in precarious work situations, having impact on workers' access to FPRW. This impact was particularly acute during the global crisis, affecting the young, migrant workers and women in particular. He called for action to identify measures that would ensure that these workers would be able to fully exercise their rights and to promote policies that would prevent them from falling into precarious work. Country examples showed that legislative measures could be taken to this effect, and a meeting of experts could look into this further.
- 29.** The Worker Vice-Chairperson favoured a strategy to support the formalization of informal work, allowing all workers access to their FPRW. Initiatives concerning FPRW had been taken by other entities, making reference to ILO standards. There was a risk that the impact of the ILO's standards could be negatively affected if these initiatives were unsuccessful. Thus, the ILO should consider how to reinforce its presence alongside other governmental and intergovernmental institutions. He was concerned about the proliferation of private voluntary initiatives in the promotion of FPRW and considered that this was the domain of public services. With regard to the ILO's engagement with multinational enterprises through its Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy (MNE Declaration), the Governing Body should be encouraged to commit to a roadmap for implementation.
- 30.** The Worker Vice-Chairperson believed that four key elements should be central to the discussion: a strong political message reinforcing the unceasing and systematic work of the ILO; a call to the Members of the ILO to rally around these activities, to reallocate regular budget funding to this area, and to support universal ratification and application; effective mechanisms both to allow the ILO to fulfil its mandate and to examine the work of other actors; and a tripartite agreement that a standard-setting item be put on the agenda of the International Labour Conference. He hoped that the conclusions would allow the adoption of a plan of action that would focus on the specific fundamental principles and rights at work but also address the relationships between these, including integrating supervision, monitoring and promotion through technical assistance and technical cooperation. In conclusion, he called upon the delegates to weigh up the anguish and expectations of people in these times of crisis, the importance of its responsibility to respond to these challenges, and its collective responsibility to find sustainable solutions that were based on

FPRW. They had been called upon to work in a tripartite manner. He hoped that the Committee's conclusions would measure up to expectations.

31. The Government member of Zambia, speaking on behalf of the Government members of the Africa group attending the Conference² (hereinafter referred to as the Africa group), praised the report, which helped understand the diverse realities and needs of member States, as well as the ILO's efforts to address these. The African region was at almost complete ratification of the eight fundamental Conventions, with only 12 ratifications missing among its 53 Members by April 2012. However, the issue for the region was to translate these ratifications into effective protection and guarantees, building on existing combined efforts while bearing in mind obstacles at the national and international level. African economies were growing at around 5 per cent, but this rate did not yet guarantee sufficient decent work opportunities. Structural problems persisted, and informality posed a particular challenge to access to FPRW. African countries' strategies to promote employment-led growth relied on coordinated approaches by the ILO across the Office and in the field. While African countries had weathered the economic crisis, strains were beginning to show as the effects of the crisis persisted and this affected the capacity of those countries to implement and realize FPRW. He recalled the importance of technical cooperation and assistance. The Africa group supported an integrated framework of assistance on FPRW, as violation of one right affected the others. Such frameworks should rest on national ownership and take account of national realities. Social dialogue involving government institutions should be given greater visibility. Labour administration and inspection systems were essential actors in achieving compliance with the 1998 and 2008 Declarations, and as such their capacity needed to be strengthened. The Africa group proposed the consideration of a new standard on the settlement of individual labour disputes, including a specific focus on FPRW, within the larger context of inspection and administration. He recalled the limited resources available for programmes and projects for the promotion and realization of FPRW and noted with concern the reliance on extra-budgetary resources, highlighting conditionalities by donors. To increase the effectiveness of programmes, in the context of restricted fiscal space, the Africa group proposed international coordination led by the ILO, and highlighted three elements for discussion by the Committee. First, consideration of the actions required by governments and the social partners to strengthen rights at work beyond commitments to ILO Conventions as well as the need to consider how to promote social justice and sustainable development in light of recent crises. Second, identification of concrete measures to reduce the implementation gap in respect of ratified Conventions and particularly the eight fundamental Conventions. Third, reflection on the kind of technical assistance provided by the ILO to better guide implementation and compliance with an integrated approach to FPRW.

32. The Government member of Denmark, speaking on behalf of the Government members of the EU attending the Conference³ (hereinafter referred to as EU Government members) welcomed the Office report. The EU and its Government members were fully committed to the rights and principles established in the 1998 Declaration as confirmed by the 2008 Declaration. All EU Government members had ratified the eight fundamental Conventions. These Conventions represented universal values and their promotion was in everyone's interest. She hoped that the discussion would contribute to universal ratification and full

² Algeria, Benin, Botswana, Cameroon, Côte d'Ivoire, Egypt, Ethiopia, Gabon, Kenya, Mozambique, Namibia, Niger, Nigeria, Senegal, South Africa, United Republic of Tanzania, Tunisia, Zambia and Zimbabwe.

³ Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden and United Kingdom.

implementation of these standards and that it would also foster greater understanding of the diverse needs and interests of member States and the social partners. There was a need for a strategic approach to FPRW leading to action-oriented guidance for the Office. In this respect, the outcome of the discussion should provide a framework for action and priorities based on the existing action plans while clarifying and prioritizing future work and avoiding overlap.

- 33.** The Government member of France, speaking on behalf of the Government members of the group of industrialized market economy countries (IMEC) attending the Committee⁴ (hereinafter referred to as the IMEC group) thanked the Office for its report as well as the supplementary information provided on the existing plans of action. He reaffirmed the importance of the 2008 Declaration, which defined FPRW as one of the ILO's strategic objectives and which also established the recurrent item procedure. He hoped that the final outcome of the discussion would provide a global framework for defining activities and priorities for the coming four years including a plan of action that would address all four categories of FPRW for consideration and adoption by the Governing Body. The discussion also presented an opportunity to improve the strategic functioning of the recurrent item process.
- 34.** The Government member of China, speaking on behalf of the Government members of the Asia and Pacific group attending the Conference⁵ (hereinafter ASPAG), noted that the Office report reaffirmed the importance of FPRW as a prerequisite for the respect of all other workers' rights. It detailed the trends and gaps in the application of FPRW as well as the lessons learned in their promotion and served as a good background analysis for discussion. Since 1998, good progress had been made towards the fulfilment of FPRW, largely due to the importance given by member States and to the promotional work carried out by the ILO. His group looked forward to contributing to the discussion that would lead to a more detailed and operational action plan in line with national realities.
- 35.** The Government member of Brazil, speaking on behalf of Government members of the Group of Latin American and Caribbean Countries (GRULAC) attending the Conference⁶ (hereinafter referred to as GRULAC), reiterated their strong commitment to promotion of the four categories of FPRW, which represented a shared challenge for the entire international community and were essential for protecting and promoting the rights of all humankind. While acknowledging that challenges remained in the promotion of FPRW in the region, she highlighted some significant achievements of member States in Latin America and the Caribbean. In particular, she referred to the 2011 Global Report which noted that 72 countries, a majority among them from Latin America, had achieved gender parity in secondary education. Countries in the region had also taken measures towards greater participation of indigenous peoples in economic and social life. The 2010 Global

⁴ Australia, Austria, Belgium, Canada, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Republic of Korea, Lithuania, Luxembourg, Malta, Netherlands, New Zealand, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Sweden, Switzerland, Turkey and United States.

⁵ Afghanistan, Australia, Bangladesh, Cambodia, China, India, Indonesia, Islamic Republic of Iran, Iraq, Republic of Korea, Malaysia, Mongolia, Nepal, New Zealand, Oman, Pakistan, Papua New Guinea, Philippines, Qatar, Saudi Arabia, Singapore, Sri Lanka, Thailand, United Arab Emirates and Viet Nam.

⁶ Argentina, Barbados, Plurinational State of Bolivia, Brazil, Chile, Colombia, Costa Rica, Cuba, Dominican Republic, Honduras, Jamaica, Mexico, Nicaragua, Panama, Peru, Trinidad and Tobago, Uruguay and Bolivarian Republic of Venezuela.

Report noted that Latin America had made the most progress towards the goals of eliminating child labour. The 2009 Global Report recognized the high level of awareness in Latin American countries about the risks of forced labour, particularly for migrant workers, and noted the quality of national action plans adopted as a result. The 2008 Global Report on freedom of association noted positive experience of social dialogue at the national level in several Latin American countries. In this context, she noted that the current discussion was an important opportunity to identify the means of ILO assistance available to the tripartite constituents and to analyse how the activities of the Office could be turned into concrete results.

36. The Government member of the United States supported the IMEC group's statement and emphasized the considerable importance that her Government attached to the ILO's work on FPRW. The attainment of the four mutually reinforcing fundamental principles and rights can support the achievement of other strategic objectives of the ILO. The key purpose of the discussion was to enable the Office to develop a better understanding of the needs of constituents and to adjust priorities and programmes of action accordingly, as well as to assess the results of the ILO's activities in order to inform the programme, budget and other governance decisions. She looked forward to the adoption of conclusions that would set out priorities for ILO action for incorporation by the Office into a comprehensive plan of action and that addressed all four fundamental principles and rights at work.
37. The Government member of Senegal supported the Africa group statement and mentioned that his country had ratified all eight fundamental Conventions. He welcomed the discussion of FPRWs, which are at the heart of economic and social development, in particular in times of economic crisis. The discussion was important for supporting national labour and social security policies, as well as broader development objectives in member States.
38. The Government member of Australia noted that both the 1998 and the 2008 Declarations provided an excellent framework for discussion, and welcomed the opportunity to discuss all four categories of FPRW together for the first time. She considered that the discussion should be primarily aimed at the identification of a practical way forward in relation to these principles and rights and that priorities for action be designed that were coupled with realistic mechanisms for achieving priorities over the next four years. Three key criteria should be met and were essential in this regard: that the priorities be *justified* through evaluations of existing research and examples of approaches to FPRW, *important* by addressing an area supported by evidence of clear and significant need, as well as *realistic* so that the identified priorities would be practicable and capable of wide implementation. The Australian Government supported a commitment to action in respect of the four categories of FPRW, having due regard to achieving universal promotion and practical realization in a coherent and holistic manner.
39. The Government member of Mexico confirmed the view, contained in paragraph 10 of the Committee's Report VI, that the current economic crisis led to situations that threatened freedom of association and collective bargaining, thereby increasing the risk of recourse to child labour and forced labour, which in turn undermined efforts to combat discrimination in employment. He also noted the potentially disastrous consequences of child labour on the education, health and overall social vulnerability and marginalization of its victims – they were likely to end up with poor quality, low-paid jobs in later life. He called for support for freedom of association and collective bargaining as a foundation for decent work and democracy – and this was consistent with Mexican labour law. With regard to the discussion of an action plan, and taking account of existing plans relating to each of the categories of FPRW, it should be restricted to the 1998 Declaration which focused on unratified Conventions. It should not be confused with other supervisory mechanisms that

related to ratified Conventions (under article 22 of the ILO Constitution), or complaints regarding freedom of association, or procedures relating to non-compliance relating to non-compliance with ratified Conventions.

- 40.** The Government member of Norway supported the IMEC group's statement and recalled her Government's strong commitment to FPRW. She looked forward to the opportunity of addressing all four categories of them jointly, ensuring constructive interlinkages between them and mainstreaming FPRW in the other strategic objectives in order to achieve or increase coherence and effectiveness. The suggested points for discussion constituted a good basis for the Committee's work, but examples of best practices could also have been included in the report. She stated that a coherent approach was key for the Decent Work Agenda, in particular in the context of the economic crisis. Although ratification rates were important, implementation of standards was equally so. Labour inspection and social dialogue played a crucial role in this regard. There is a specific need for new and much stronger action in the field of freedom of association and collective bargaining. With regard to the action plan to be adopted, it was essential to consolidate the existing ones into one integrated plan. The action plan to be adopted should include the four categories of FPRW and should be linked to the other strategic objectives. While the Committee could develop the general principles and elements for an action plan, a more detailed document could be presented to the Governing Body in November 2012 in connection with the programme and budget process.
- 41.** The Government member of Belgium supported the EU Government members' statement and noted that, in the context of globalization and the economic crisis, the economic crisis had created an increased number of vulnerable workers, many in precarious work and in the informal economy. Pressures on the labour market endangered the protection of workers' rights, including FPRW. Budgetary rigour associated with labour market deregulation undermined these principles and rights. She stated that solutions and appropriate mechanisms needed to be found to ensure an effective application of principles and rights. Labour inspection needed to be strengthened, in addition to a focus on social protection, freedom of association and collective bargaining. She emphasized her Government's commitment for the inclusion of fundamental labour rights in trade agreements and considered that the plan of action should refer to the MNE Declaration.
- 42.** The Government member of France concurred with the EU statement, but wished to add a supplementary point on the importance of consistency and coherence, which were both relevant and necessary in order to make progress on the ground. Internal consistency within the Organization and the Office was not just about coordination and greater complementarity. He stressed the need for synergy between the activities of all departments in the Office, to avoid the risk that reserved domains and silo approaches would prove to be an obstacle to progress in the next four years. External consistency and coherence meant that the ILO should adopt policy at the global level and for specific technical cooperation projects. In terms of coherency, he recognized the ILO's integrated approach towards FPRW and positive developments over the years which he felt were the core of social justice. It was useful to emphasize the mutual link between the four objectives of the ILO and FPRW, which were mutually reinforcing, indivisible, interrelated and interdependent. He stressed the need to listen to the political signals given by the G20 and particularly the 2011 G20 Cannes Summit Final Declaration – Building Our Common Future: Renewed Collective Action for the Benefit of All – which situated this discussion in a global and social context. The issue of coherence was crucial for establishing practical and tangible results in the spirit of the 1998 Declaration, as well as for the overall strategy of the ILO.
- 43.** The Government member of Turkey confirmed that Turkey had ratified all eight of the ILO's core Conventions and other documents that regulate work life from the UN, the EU

and the Council of Europe. As a candidate country for EU membership, Turkey had made substantial changes to legislation in order to promote human and labour rights and collective bargaining. In April 2012, a draft labour law for collective bargaining was enacted to improve labour relations in line with ILO and EU norms. At a special session of the Conference on the Global Report in 2006, Turkey was chosen as one of the three countries that most effectively combated child labour. It had since carried out several projects in this regard with a commitment to eliminate child labour by 2014. These included the adoption of a national policy and programme framework and of a law to approve ratification of the Council of Europe's Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse. Other initiatives targeted improved conditions for migrant workers and their families, and established coordinated efforts by institutions to combat child labour. He noted important progress on human rights and gender equality and established incentives for increased employment of women. Nine ILO Conventions had been ratified to combat gender-based discrimination and there had been sustained efforts made to promote employment of women and equal opportunities. In 2011, a Prime Ministerial circular aimed at improving conditions for migrant agricultural workers reinforced coordination of efforts to tackle child labour. In addition, he stated that a Memorandum of Understanding on the Decent Work Country Priorities was signed which gave priority to gender equality, employment of women and combating child labour within the framework of Convention No. 182. Turkey was committed to implement this programme with the social partners. He welcomed continued collaboration with the ILO under the framework of FPRW and hoped that the current and intense cooperation would promote freedom of association, elimination of child labour and increase gender equality.

44. The Government member of Argentina thanked the Office and the Committee of Experts for their important documents for the recurrent discussion, and confirmed her country's full cooperation to fulfil fundamental principles and rights and enhance understanding of the issues. It was necessary to go beyond mere ratification to full implementation of FPRW, which was required by the ILO Constitution. Dysfunctional situations still existed and therefore, Argentina stressed the need to improve implementation. Ratification rates for Conventions Nos 87 and 98 were high, but progress was needed to extend these instruments, especially to the most populous nations. She highlighted the need to interconnect the fundamental labour principles in order to contribute to and achieve a more egalitarian and democratic society – this was a prerequisite to enjoy public freedom and that policies had to be coordinated in an appropriate way. Vulnerable groups subjected to social exclusion – in particular, domestic, rural and migrant workers – were particularly exposed to discrimination and violation of their rights at work. She affirmed Argentina's national implementation of policies for social and legal inclusion, as well as mechanisms to achieve equality for all workers, especially for rural labour which had previously suffered from discriminatory legislation. The new law increased the level of social protection of workers in labour contract laws, and incorporated rural workers. Similar policies were adopted for domestic workers and a draft law included them and raised their rights to the same level as general workers. Argentina was in the process of ratification of Convention No. 189. The country also had laws that recognized the rights of all workers, including migrant workers. Significant advances were made to fight against child labour. She informed the Committee that a regional meeting on child labour in MERCOSUR countries would be held in Buenos Aires at the end of June 2012. Argentina supported the proposal for the plan of action as set out in the report.
45. The Government representative of the Bolivarian Republic of Venezuela underlined the importance of this discussion on FPRW. Her Government had ratified the eight core Conventions and fundamental rights at work were protected by the Constitution and national legislation. Under the laws, no person could be committed to slavery or servitude, particularly women and children. In addition, there were bans on forced or compulsory labour. Work was seen as a means to develop society and that no situation should exist that

goes against human dignity. Her Government's labour legislation of 7 May 2012 extended the right to collective bargaining, protected freedom of association more broadly, including coverage of organizations for the self-employed and artists, protecting trade union members and guaranteeing freedom of association for the unemployed and retired people. The laws gave them the right to join trade unions, and organize to defend their interests and to ensure rights were protected. Outsourcing was banned, and employers were required to include non-standard workers on the payroll and provide them with regular jobs to ensure they had the same benefits as other workers. The laws also ensured that there was no discrimination on the grounds of sexual or political orientation, disability or as a result of having a criminal record. Specific legislation had been adopted to promote equal opportunities in the workplace, and to promote educational participation through a series of measures such as school meals. The labour law of 7 May 2012 also protected children and adolescents under the age of 14, with exceptions for those involved in artistic and cultural activities that had received prior approval. The Government had introduced various programmes, such as school meals and the Sons and Daughters Mission and Girls and Boys Mission of Venezuela, in view of covering the needs of children and adolescents to save them from having to work. As a result, there had been a rise in school attendance among children and adolescents. Such initiatives provided evidence of the efforts made by the Government of the Bolivarian Republic of Venezuela to promote and protect the fundamental principles and rights at work.

- 46.** The Worker Vice-Chairperson noted that participants appeared to share a commitment to reaffirming the pertinence and importance of FPRW. Most Government and Employer statements had referred to the need to act on the 1998 and 2008 Declarations, and pursue the objective of universal ratification. Nobody had failed to note the effects of the crisis, nor had they underestimated its effects. Action taken by the multilateral system and by bodies dealing with issues of economic, budgetary and trade policy was recognized. Although it was a very broad field, support by all would enable the Committee to work in an effective manner and come to conclusions that would lead to effective actions. There was wide consensus on the analysis in the report, especially with regard to the need to ensure that necessary resources were made available. He noted the emphasis given to freedom of association and the right to collective bargaining, despite the contradictions with realities in several countries. The legitimacy of the ILO – with its 185 member States – had been publicly noted in various analyses of the economic crisis, in terms of its work on labour rights within the framework of democratic rights. The ILO's work in Myanmar provided evidence of its legitimacy. He therefore encouraged the Committee to work hard towards effective conclusions.
- 47.** The Employer Vice-Chairperson pointed to the areas of consensus that had been highlighted by the discussion. There had been overwhelming consensus on the validity of FPRW and wide recognition of the effects of the economic crisis, and in stressing the importance of achieving and maintaining those principles and rights. Crises were a recurrent problem, so any action plan should anticipate such crises and work to ensure that FPRW could be self-sustaining even in the face of serious economic difficulties. The Employers agreed with the Workers on the need to strengthen labour inspection systems, and that conclusions should prioritize extending and maintaining these principles and rights. They also agreed on the need to establish priorities in the framework for action. Several countries had highlighted the need for the enabling conditions for FPRW. The notion of enabling conditions needed to be better defined and part of that related to the terms of adequate funding, which should include the wise use of existing resources in ways that would ensure that they have the greatest impact.
- 48.** The Chairperson welcomed the Officers of the Conference who had come to pay tribute to the Committee: the President of the Conference, Mr R.F. Albuquerque de Castro (Dominican Republic); the Government Vice-President, Mr R.M. Sukayri (Jordan); the

Employer Vice-President, Mr B. Matthey (Switzerland); and the Worker Vice-President, Mr F. Atwoli (Kenya). The Chairperson invited the President of the Conference to address the delegates.

49. The President of the Conference, Mr R.F. Albuquerque de Castro (Dominican Republic) highlighted the important role of the Committee and commended its energetic commitment to FPRW set out in the 1998 and 2008 Declarations. These principles and rights were of particular importance in the context of the economic crisis and of growing inequalities. FPRW were at the heart of the ILO's mandate, and were of particular importance for countries confronted with major difficulties and those trying to make their labour markets more inclusive. The issues addressed by the Committee were crucial for the world of work. Synergies could be established with the topics of youth employment and the social protection floor also addressed by the Conference. Tripartite discussion would contribute to strengthening the role of the ILO as a key player in achieving a fair globalization. The 1990s had seen the end of the Cold War, and that event was of great relevance to FPRW. In the context of growing globalization, the global economy had needed decisive measures to recognize fundamental principles and rights in the world of work. Fifty years after the UN Universal Declaration of Human Rights, the ILO had adopted the 1998 Declaration on Fundamental Principles and Rights at Work. Ten years later, when the ILO adopted the Declaration on Social Justice for a Fair Globalization on 10 June 2008 – the third landmark declaration adopted by the ILC since the ILO's establishment in 1919 – the Director-General had stated that it had come at a crucial political time and reflected a wide consensus about the need for a stronger social dimension of globalization. That was the context and source of the current discussion, which had huge implications for international labour law. The first recurrent discussion of FPRW came at a time of crisis for the world of work, when questions continued to be posed about the future of globalization. The reality that crisis-induced conditions gave rise to circumstances in which freedom of association and collective bargaining, in particular, came under pressure, or where there was greater danger of recourse to child or forced labour, or where the necessary commitment to the ongoing fight to eliminate discrimination in employment was compromised, could also not be ignored.
50. The virtuous circle between international human rights law and the ILO standards system was one of the greatest progressive factors in the history of labour law. The ILO Declarations of 1998 and 2008 had added to the array of international sources for the protection of fundamental rights. In Latin America, national legislation had subsequently been adapted or interpreted based on such international sources. He therefore emphasized the importance of the Committee's work on its five points for discussion, which he hoped would lead to an action plan on FPRW and a fair globalization, to more ratifications of the eight fundamental Conventions and to the effective application of FPRW. Finally, he expressed his confidence that an open and fruitful discussion in the Committee would reflect the value of tripartism and reach consensus on an action plan on FPRW.

Point 1: Fundamental principles and rights at work and a fair globalization

51. The Chairperson opened point 1 for discussion, namely whether additional initiatives were required to give further effect to the collective commitment to FPRW at the global and national levels, and notably whether such initiatives should include efforts to promote the contribution of FPRW towards the realization of social, economic and development objectives, and what should be the ILO's priorities for 2012–16 on those principles and rights.

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52. The Worker Vice-Chairperson considered that it was necessary that a strong message on commitment to FPRW should be made, not only for the Organization, but also outside the ILO. For the Workers' group, economic growth could not be used to justify restructuring, or modifying labour law in a way that would jeopardize the effective implementation of FPRW. Economic and other policies should respect FPRW. Recalling his opening statement, he stressed the importance of social coherence, and that social progress must be the primary goal. The 2004 report of the World Commission on the Social Dimension of Globalization – *A Fair Globalization: Creating Opportunities for All* – made recommendations on a common platform for action, and on the basis for future multi-stakeholder dialogue as an essential vehicle for cohesive and sustainable change. He regretted that few countries had followed such recommendations, and that IMF restructuring policies prevailed. Regarding these policies, other international organizations, notably the Organisation for Economic Co-operation and Development (OECD), which published a report highlighting the decrease of the wage share in redistributed income, had already admitted that wage reduction policy options were a mistake.
53. The Global Jobs Pact stated that international labour standards were fundamental for a sustainable economy. The Workers' group believed that the ILO must be recognized as a key player in the G20, but deplored that current trends seemed to go in the direction, of FPRW being eroded by the calling into question of these as well as other principles of collective bargaining and trade union rights. It was important to implement the resolutions adopted by the ILC including the 2008 Declaration and the 2009 Global Jobs Pact.
54. He reiterated the need for policy coherence in the international system. The G20 could set the example, and the ratification of fundamental Conventions should be established and clearly identified on the political agenda of G20 countries. The Office should have a systematic and proactive role in other international forums, including international and regional forums concerned with economic and trade aspects, to give effect to the provisions of the 2008 Declaration, which required the ILO to assist its Members in implementing the Declaration, through cooperation with other international and regional organizations with mandates in closely related fields. The ILO should invite these organizations to regularly attend meetings of the Governing Body, to ensure greater coherence and consistency by these organizations regarding FPRW. The Workers' group believed that this frequent and regular dialogue should be based on analysis and research produced by the Office, and therefore the Office's capacity should be reinforced so as to enable follow-up on the implementation of FPRW. He praised the recognition by the UN of the importance of the social dimension of the respect for fundamental and basic rights at work, and of FPRW as a full part of human rights, but it was essential that member States recognized clearly the specific role of the ILO in adopting and implementing these rights.
55. The Worker Vice-Chairperson stressed that FPRW were human rights, so that UN member States should recognize the special role that the ILO had in the formulation, implementation and follow-up of standards. Mechanisms should allow expert evaluation of these standards beyond the ILO. This would allow constituents to request an ILO expert study on the effects of a trade agreement on FPRW, for example. In terms of those principles and rights at national level, the Social Justice Declaration of 2008 made this connection explicitly, and more creativity was needed in this regard. ILO member States were also members of other multilateral agencies. The response by the Director-General of the World Trade Organization (WTO) to repeated concerns from the Workers' group was to refer them to their national governments. The Workers' group had also been critical of the World Bank's *Doing Business* report; these criticisms could have been relayed formally through national governments' membership of the World Bank. One suggestion could be to broaden the mandate of national tripartite commissions along the lines of the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144),

extending participation to ministers of trade, finance and foreign affairs, thus building their awareness of FPRW and multiplying this effect across multilateral bodies. Government actors needed to participate more fully in the implementation of ILO policies at all levels. Consideration should also be given to ILO presence in regional forums. There were instances of contradictions between regional and national legislation, such as the position of the European Court of Justice on freedom of association and collective bargaining and that of national courts in the European region. The MNE Declaration and its follow-up should be implemented, and greater emphasis given to its references to FPRW. One initiative in this respect could be to identify sectors and chains of production in which enterprises could agree on a voluntary basis to survey practices and report back to the ILO.

- 56.** The Employer Vice-Chairperson referred to the topic of the ILO's engagement with the other multilateral organizations, raising the question of the nature of this engagement and cautioning that this should not be an imposition of the ILO's views. It required sensitivity, similar to that around the difference between standards and FPRW, and between standards and policies.
- 57.** With regard to the Workers' proposal to extend the implementation of the 1998 Declaration, there were already follow-up processes defined and in place, and there was also the Committee of Experts which examined the implementation of ratified standards in national legislation. The distinction between these two processes was important.
- 58.** The Employers' group believed more efforts were needed to unleash the full potential of FPRW, and supported the call by the Workers for the Committee's work to conclude with a high-profile, powerful message. They also shared the view that FPRW were key to social and economic progress. All four categories needed support as they were of equal importance and could not be ranked; each enabled and reinforced the others. They were human rights, and for this reason the ILO should work more in the human rights context and with human rights organizations. The UN Working Group on Business and Human Rights was one such institution, which promoted the protection of human rights of citizens, including through labour administration and labour inspection. In this regard, the 2011 ILC conclusions on labour administration and labour inspection should be reflected in the conclusions of the present Committee. The enforcement of legislation was critically important and reporting mechanisms should monitor this. An enabling environment was required, encompassing five elements: state commitment to democracy and law; good governance and transparency; strong and effective institutions; mechanisms for representative organizations to be integrated in policy-making processes; independent judiciary and conflict resolution mechanisms. Freedom of expression and the right of assembly were crucial human rights, as mentioned previously, but an enabling environment for the realization of FPRW also required a supporting environment for sustainable enterprises. Individual responsibility, competition, equal opportunities and social rights were mutually dependent and the basis for releasing productive energies in the economy as well as for the common good of all. Competition in particular was a source of prosperity. In this respect, the 96th Session of the ILC adopted a "Resolution concerning the promotion of sustainable enterprises" and highlighted the need for well-regulated property rights, the creation of an enterprise culture and the construction of an enabling framework. The ILO should endeavour to inject more life into this resolution.
- 59.** A first step in identifying priorities on FPRW was a proper analysis of the needs of constituents. The ILO should engage more in such work, including through its decent work country scans and consultations when preparing DWCPs. The promotion of FPRW should be a voluntary part of each DWCP, and not mandatory as was proposed in Report VI (paragraph 209). He urged the Office to develop a system on how to better use the country scans and DWCPs in the identification of priority action on FPRW at the national level. Regarding other FPRW initiatives raised in Chapter 4 of the Office report, the action plan

resulting from this discussion must be realistic and focus on areas within the ILO's own mandate and competencies. Moreover, the conclusions and actions should be focused on the responsibility of member States to implement and enforce FPRW. While it was important to gain an understanding of the trends and developments regarding international framework agreements and corporate social responsibility, it should not blur the roles and responsibilities of the different actors. The Office's accountability had to be addressed more directly than in the past and he indicated the employers' commitment to holding the Office responsible for the implementation of the action plan and conclusions of the present discussion.

- 60.** The Government member of Zambia, speaking on behalf of the Africa group, reaffirmed the vital role of promoting FPRW for achieving the ILO's strategic objectives and towards the realization of social justice in the context of globalization. Current labour market challenges called for concerted efforts by all, including the need to prioritize ILO action over the 2012–16 period. The ILO should consider the requirements of member States when reviewing each strategic objective and follow-up action. It further required the Office to build an efficient and up-to-date knowledge base to respond to the challenges in achieving FPRW and to examine the impact of ILO action. A technical cooperation strategy was also needed particularly to strengthen the capacity of labour administration and labour inspection systems to achieve full compliance with the 1998 and 2008 Declarations. The ILO should focus vigorously on the creation and retention of decent jobs, especially with regard to vulnerable workers. The Africa group supported the promotion of policy coherence within the multilateral system as key priority for realizing FPRW.
- 61.** The Government member of China, speaking on behalf of ASPAG, emphasized that capacity building and technical cooperation should be an ILO priority in 2012–16 towards the achievement of FPRW.
- 62.** The Government member of Colombia observed that the challenges of implementing FPRW required complementary initiatives both in terms of ratification and implementation. This included the essential role of institutions through which laws, policies and activities were developed and turned into realities. There were many challenges to achieving FPRW, including atypical forms of employment and of employment relationships, informality, child labour, work in export processing zones (EPZs) and the diversity of mechanisms to enforce workers' rights. A major challenge was atypical employment relationships, and it was recommended that laws should take these heterogeneous forms of work into account. Many countries, including in Latin America, had unequal systems of employment contracts that negatively affected worker access to social security, rights protection and trade union membership. Incentive systems could be adopted to encourage employers to improve this. It was paramount that ILO action aimed towards improving and harmonizing contractual arrangements in countries, favouring those contractual forms guaranteeing full respect of workers' rights. With respect to informal work, it was often forgotten that one of the main principles in regularizing work was the respect for workers' rights. It was essential that the ILO provide technical support in this regard. There were other forms of work without a formal employment relationship or where vulnerable workers were disadvantaged by parallel legislation. The ILO should address non-traditional forms of work and develop recommendations and technical assistance to regularize such work and/or provide for greater worker protection, and consider possible coordination and coherence with multilateral institutions.
- 63.** The Government member of Denmark, speaking on behalf of the EU Government members, noted that FPRW were at the heart of the ILO's role and were key to decent work and sustainable socio-economic development. They were enshrined in their Member States' laws and policies, which was why the EU strongly supported ILO action to promote

FPRW. The crisis brought new challenges to these efforts, although most efforts to restore growth and promote a job-rich recovery had put the creation of quality jobs at their core, including the promotion of international labour standards and FPRW. The cooperation between the ILO, the OECD, the World Bank, the IMF and the UN system in response to the crisis, as well as coordinated EU strategies and G20 commitments, offered new opportunities to promote these principles and rights. She supported the importance of FPRW in the Office report, especially the role of freedom of association and collective bargaining in creating an enabling environment. Promoting FPRW standards had been done through various channels, including ratification and monitoring of their application. However, ILO efforts should also consider the role of FPRW in the context of trade agreements and private voluntary initiatives. She supported the objectives and appropriate follow-up to the 1998 Declaration and urged greater coordination between ILO departments to improve assistance to member States, including those who have not ratified the fundamental Conventions. Conducting comparative analyses on the implementation of FPRW was important to enable objective priority setting with respect to promotion and monitoring. In this respect, the General Surveys were key monitoring mechanisms, as would be a list of countries where the ILO did not have the capacity to assess the implementation of FPRW. The EU's long-standing experience and expertise in monitoring the implementation of legal standards could be instructive for the ILO, especially given that EU Government members had ratified all fundamental Conventions, while FPRW were contained in many EU treaties and other instruments, and in the Charter of Fundamental Rights of the EU. The ILO should continue to ensure policy coherence among multilateral organizations in promoting FPRW, particularly with the World Bank and the IMF, notably through the Better Work programme, and special attention should be paid to freedom of association and collective bargaining.

- 64.** The Government member of Mexico noted that the universal application of FPRW was essential for a fair globalization. International organizations should respect and keep to their own mandates and policy coherence in the multilateral system was essential. He emphasized that international labour standards should not be used as a means to develop protectionism and that FPRWs were human rights, as enshrined in the Universal Declaration of Human Rights and in other United Nations treaties.
- 65.** The Government member of Brazil believed that FPRWs should be included in economic and social policies and that the conclusions of the Committee should give a strong and influential message from the ILO and its constituents that mere ratification was not sufficient and, without the member States' political will, nothing could be achieved. In addition, social dialogue and collective bargaining needed to be reinforced and stimulated. Social partners should be strengthened to foster economic and social development towards fair globalization.
- 66.** The Government member of Norway emphasized vigorous support for the Decent Work Agenda as a basis for global governance and a tool to counter the economic crisis. The mandates in the 1998 Declaration and 2008 Declaration were considered to remain highly relevant and that coherence in global governance was ever more important. Putting social justice on a par with economic efficiency and growth was absolutely necessary. Further ILO cooperation with the World Bank, the IMF, the OECD, the G20 and the WTO should be developed. Member States had a great responsibility to speak with one voice. Norway had, in cooperation with national social partners, adopted a seven-point strategy for the promotion of decent work and workers' rights globally and the integration of decent work into foreign, development and trade policies. Additionally, the strategy was aimed at greater coherence in domestic policies and in international institutions. The gains from globalization were not distributed equally. The universal recognition of FPRW was considered insufficient to ensure social progress and overcome poverty, but it was considered a precondition. FPRW should be an integral part of economic and social

policies. Trade, employment and social policies should be pursued together and there should be investment in infrastructure, education and skills, social protection systems with unemployment components and gender equity policies. The ILO Global Jobs Pact was important, as well as its measures to tackle the economic and social policy dimensions of the crisis recovery and policies needed for longer term sustainable and balanced growth.

- 67.** The Government member of India recognized the ILO's effort in promoting ratification of FPRW with member States, but due regard should be given to their varying conditions and circumstances. Ratification was not the sole indicator of government commitment and of real change on the ground. Countries should respect FPRW and promote them in a comprehensive and realistic manner. It was important to advocate decent work for all, to recognize the importance of tripartism and to be actively engaged with social partners and other stakeholders in the formulation of initiatives on FPRW. The objectives of the Social Justice Declaration could be realized if workers benefitted from enduring economic and social justice. The ILO should develop and replicate programmes in support of these issues, and increase its efforts in capacity building for phased ratification of fundamental standards, to facilitate the conditions for ratification of Conventions, especially in developing countries.
- 68.** The Government member of Kenya believed that the promotion and holistic implementation of FPRW, as part of a broader human rights approach, was critical for countries to support the poor in working out of poverty. This was considered to be of particular importance for Africa, where the casualization and informalization of the labour market has created precarious conditions of employment. FPRW formed a negotiation floor for collective bargaining and were an important tool for redistributing the gains of productivity and production generally. He noted the current ramifications of globalization but also the need for competitiveness. The deregulation of labour markets was one of the common responses. In this regard, he emphasized that there should be no flexibility on statutory rights and all negotiations must ensure minimum working conditions. To enforce these minimum labour rights, labour inspection services needed to be revitalized and strengthened. In addition, inclusive social dialogue between labour inspectors, workers and employers was required for the promotion, implementation and compliance of FPRW. Promotion and implementation of the benchmarks set for these principles required close cooperation with the ILO. Support was given to an integrated and multilateral approach with financial institutions, such as the World Bank and the IMF. Financial legislation had been revised that inhibited the ability of various ministries to speak with one voice with those agencies for common understanding of the principles at the national level.
- 69.** The Government member of Canada recognized that the universal realization of FPRW was key to fair globalization. This was also the enabling condition for the ILO to achieve its strategic objectives and it was, therefore, essential to develop a framework for ILO action to support this effort. The priority that her Government deemed important for the ILO in 2012–16 was to provide technical assistance to member States to strengthen fundamental principles at the national level. Areas that required particular focus were on the development and implementation of policies and legislation that supported the principles, as well as development and implementation of effective administration and enforcement mechanisms. Assistance also needed to be given to workers' and employers' organizations to strengthen their capacity to realize the fundamental principles by raising awareness and through training activities. Promotion of FPRW at the international level was central to achieving social and economic objectives, and it was important to work with other international organizations to promote mutually supportive policy coherence. It was essential that the contribution of the ILO was fact-based, credible and demonstrated the social, economic and development impact. She stressed that in view of the current fiscal restraint, it was critical that the ILO develop partnerships to avoid duplication, including in research, publications and the delivery of technical cooperation.

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- 70.** The Government member of the United States believed that the realization of the four mutually reinforcing principles in FPRW was both a goal and a means to further the ILO's strategic objectives. Her Government placed great importance on the ILO's work to promote those principles and noted that the Office already was successfully engaged with constituents and within the multilateral system to advance the goal of implementation. Priorities set for the Office over the next four years should include: providing technical assistance to member States, including capacity building for labour administration, labour inspectors and employers' and workers' organizations to improve implementation of FPRW; and, in view of increased ratifications, ensuring the effective functioning of the supervisory machinery of the ILO, through providing adequate resources for the supervisory bodies and their secretariat. A third priority was to conduct sound, peer-reviewed research of the social and economic impact of FPRW. Finally, monitoring and evaluation of the ILO's activities were required to share best practices and incorporate lessons learned in future activities.
- 71.** The Government member of China supported the concept of enabling conditions for FPRW, but rejected the conditionality in policy coherence and linking FPRW to trade. Additional activities undertaken by the Office must remain within its mandate, and should not stray into other areas and overlap with other efforts. The priorities he identified were to build capacity at the grassroots level and work with the social partners to negotiate collectively on wages.
- 72.** The Government member of Senegal supported proposals made by the Africa group but wished to add that although FPRW were internationally recognized, there were still difficulties that had to be overcome. New initiatives were needed to mobilize and sensitize the global community and to obtain commitment to these principles. It was important to use international law to enshrine these principles within economic and social policy and ensure their proper implementation. Raising awareness of the trade partners was deemed important in order to take account of the fundamental principles of the ILO and to ensure they were incorporated in trade agreements. A strategy was considered necessary to develop awareness and a partnership with the World Bank and the IMF so that they included the full respect of core ILO Conventions to conditionalities when loans were sought.
- 73.** The Government member of South Africa supported the Africa group statement and noted that the report recognized and emphasized the work of the ILO on freedom of association, collective bargaining, elimination of forced labour and child labour. These rights were acknowledged as key components of a fair globalization. His Government fully accepted the spirit of the 1998 Declaration, and as a consequence had ratified all eight ILO core Conventions following the establishment of democracy in South Africa in 1994. Since that date, there had been strong support by the social partners for tripartite social dialogue through the National Economic Development and Labour Council. He deemed this critical for national ownership. However, serious challenges remained in terms of high unemployment, high underemployment, particularly for youth, and discrimination. The ILO and its member States needed enhanced promotion of the fundamental principles through the field structure and decent work teams and the DWCPs. A coherent plan of action for capacity building of institutions for freedom of association and collective bargaining could help reduce precarious employment and sustain FPRW. Ratification alone did not ensure this; there was a need for greater efforts for multilateral collaboration and policy coherence.
- 74.** The Employer Vice-Chairperson recalled that there was a hierarchy to the full realization of FPRW. First, the State had a duty to implement these principles through law, and to protect them, as established in the 1998 Declaration. Once this was accomplished, enabling conditions were required on the ground at both the national and local level to establish an

environment for full implementation. Finally, ILO action was needed for capacity building and institution building based on the practical needs of the member States and not on a theoretical approach. In terms of policy coherence, the November 2011 Governing Body had debated this issue. Based on that experience, he believed that the Committee did not have time to resolve the nuances of policy coherence and it was necessary to take into account the mandate of each institution in the multilateral system. The practical reality was that care was needed when talking about trade-related issues in particular, as a vast difference existed between governments on that topic. He pointed out that in the 1998 discussions leading to the Declaration, 90 per cent of the time was spent on trade issues rather than rights and principles due to these differences. Broad consensus was needed on the principles, but the discussion on trade needed to be avoided, or else momentum on the broader goals and objectives would be lost.

75. The Worker Vice-Chairperson insisted that his group did not desire a theoretical discussion on coherence; coherence was required to implement FPRW and a system of coherence in implementing FPRW should be developed through the ILO's Governing Body, in cooperation with other international organizations and with the involvement of national governments, to put fundamental human rights on equal footing. Freedom of association, the right to organize and collective bargaining were the most important rights, the pillars on which the other principles were to be achieved. In some countries that had ratified the Conventions implementation was far from complete. A gap still existed between ratification and implementation, and these rights were most fragile on forced labour and child labour, as noted by the data presented to the Committee. The Worker Vice-Chairperson agreed with the Employers' reflections on coherence, in particular how it could be implemented to minimize the extent of legal overlap. He did not want other organizations to tell the ILO how to elaborate its standards, as some had tried in the past and continued to do, by applying pressure on social standards. The mechanisms suggested were designed for an exchange on analysis and impact. The ILO was as legitimate and important as other international organizations and, although all activities should lead to human rights at work for men and women, no overlap in application was acceptable. The report tried to establish criteria to this effect. Freedom of association and collective bargaining were not considered positively in the World Bank's *Doing Business* report. In effect, the European Court of Justice interpreted away workers' rights in favour of the economic freedom and free movement of enterprises, which directly affected trade union rights and FPRW. He cited paragraph 299 of the ILO's *Report on the High Level Mission to Greece* (Athens, 19–23 September 2011)⁷ as follows: “The High Level Mission is aware of the implication of the Troika in matters relating to the application of International Labour Standards. It notes that the package of adjustment measures implemented in the context of the crisis concerns not only fiscal and financial measures but also structural reforms to the labour market institutions which are within the ILO's mandate and for which it has particular expertise” and agreed that it was important that this was not misinterpreted, and warned against disregarding reality. To this effect, a forum for a regular exchange of views between the ILO and other multilateral organizations was proposed. Tripartite discussion at the national level on practical steps helped make progress. The question of universal ratification provoked comments from the Committee and some were very positive, but it was important to identify the countries that did not ratify Conventions containing FPRW, and insist on setting a good example. What was required was not only universal *ratification*, which should be relatively easy, but also universal *application*, which was much more complex. If this objective was achieved, a strong message would be sent to encourage the Office's action and give it higher visibility.

⁷ See at http://www.ilo.org/wcmsp5/groups/public/@ed_norm/@normes/documents/missionreport/wcms_170433.pdf.

Point 2: Universal ratification of the eight fundamental Conventions and promotion of universal application of FPRW

76. The Chairperson opened point 2 for discussion. As the pace of new ratifications of the eight fundamental Conventions had slowed in recent years and a significant proportion of the world population remained outside the protection of certain fundamental Conventions, he asked whether the universal ratification of the eight fundamental Conventions should continue to be a priority objective and, if so, what further steps would be appropriate to give new impetus to the ratification campaign and a broader initiative on promoting the universal application of FPRW.
77. The Employer Vice-Chairperson asked the Office to explain the nature of a ratification campaign referred to in the discussion point. The question was important, as it determined the approach the Organization would be taking to promote FPRW. Since the overall ratification rate was at 90 per cent, it was only natural that the pace of ratifications had slowed down. Ratification was an important way of demonstrating commitment to ILO core values, but it was not the only way. Moreover, ratification alone was an insufficient indicator of respect for FPRW. Workers in countries that had not ratified a fundamental Convention were not necessarily deprived of rights. He gave the example of New Zealand, which considered that it complied with Convention No. 138 as it had a school-leaving age which acted as a de facto age below which full-time employment could not be undertaken. However, it was unable to ratify the Convention because the ILO demanded an actual age for employment. Furthermore, the high government reporting rate under the Annual Review showed the commitment of non-ratifying member States to the realization of FPRW. Greater recognition should be given to such efforts to widen the space for dialogue and encourage countries in those endeavours.
78. States were well aware of their situations vis-à-vis the core Conventions and would ratify them when implementation was possible. Therefore, an action plan should focus on the promoting FPRW instead of ratification per se, pushing for effective implementation in both ratifying and non-ratifying countries. That approach had been highlighted in the ILO programme implementation report 2010–11, which had pointed to strong demand among constituents for comparative analysis and direct technical support. The Office should therefore reorient its efforts from advocacy to technical work and technical assistance, especially capacity building, and devote resources to regaining its position as a globally recognized knowledge centre on the world of work by developing solid fact-based research. As others had mentioned, ratification did not necessarily mean implementation. For example, Convention No. 182 had been ratified by more than 170 member States, yet ILO data indicated that more than 100 million children were still in worst forms of child labour. Focus should therefore be placed on the proper realization of fundamental principles and rights on the ground, for which a much more holistic approach to promoting FPRW was required. In that, a focus on standards other than core Conventions could be key in promoting an enabling environment. Data collection on the implementation of the core Conventions needed improvement and country information should refer to national practice and not just existing legislation, thereby highlighting effective progress on FPRW. The Office should develop procedures to ensure that such information was effectively used towards providing effective assistance in response to constituents' requests.
79. The Worker Vice-Chairperson observed that Committee members concurred on the importance of both objectives: ratification and implementation. Indeed, a ratification campaign should continue to work towards universal implementation. This was illustrated by the fact that Conventions Nos 87 and 98 had been falling behind. Campaigns should be reinforced and methods reconsidered, as existing arrangements had become somewhat ineffective. It was no longer enough to send letters to governments; instead a more

proactive, high-profile and overarching approach, involving the ILO and its constituents should be pursued. The campaign required clear terms of reference, and he proposed that universal ratification remain a priority and that reporting be used as a monitoring and follow-up element. The Office should produce studies providing greater clarity on ways of addressing existing gaps and overcoming obstacles. Regional offices should be fully involved in ratification campaigns. Given that the Office report indicated that implementation of FPRW left much to be desired, the Workers' group considered that FPRW should become a pillar for all DWCPs. In addition, member States' new initiatives to promote FPRW could include requiring respect for these principles and rights in public procurement contracts and launching public information campaigns on non-discrimination, freedom of association, collective bargaining, abolition of forced labour and elimination of child labour. Regional economic integration organizations should integrate FPRW in their activities and put in place mechanisms for their promotion, in collaboration with the ILO.

- 80.** Commitments made in respect of FPRW should also be matched with appropriate funding. The Office should therefore propose to the Governing Body, in the context of the 2014–15 programme and budget discussion, budget allocations for financing action on FPRW, also addressing existing funding imbalances to the detriment of Conventions Nos 87 and 98. Resources allocated for non-discrimination should particularly benefit equal pay between women and men. The Workers' group proposed that a plan of action on FPRW be implemented from 2012 to 2016, including an introductory section, followed by a section on each category of FPRW starting with freedom of association and right to collective bargaining, then a section on the dynamics between the different categories of right and common elements such as ratification campaigns, capacity building and knowledge sharing, and finally a section on monitoring and evaluating the implementation of the plan of action.
- 81.** The Government member of Zambia, speaking on behalf of the Africa group, strongly believed that universal ratification of the fundamental Conventions should remain a priority objective for the ILO as all member States had an obligation to implement the principles embodied in these instruments. There was a need to show political will among member States that had not ratified these Conventions and to give new impetus to the ratification campaign, in order to achieve effective promotion of universal application of FPRW. Efforts to urge member States to ratify those Conventions should therefore continue, with the Office focusing on public awareness raising, including among Members of Parliament, and capacity building among social partners to implement the Conventions' provisions. The promotion of social dialogue was a key means to achieve universal ratification, and building capacities for collective bargaining and freedom of association mechanisms was vital in this regard. Furthermore, enhanced technical cooperation with member States was needed to address challenges that hindered ratification. In addition, the ILO should work with subregional economic organizations such as the Southern African Development Community (SADC), the Economic Community Of West African States (ECOWAS), the Economic Community of Central African States (ECCAS), the East African Community (EAC) and the Arab Maghreb Union (MAU) with a view to realize FPRW among member States in those areas. Those organizations had themselves set targets to achieve those commitments, from which the ILO could benefit.
- 82.** The Government member of Denmark, speaking on behalf of the EU Government members, welcomed that the ratification rate of the fundamental Conventions stood at over 90 per cent, with Conventions Nos 29 and 182 having the highest numbers of ratifications. She expressed concern about the striking fact that over half of the world's population lived in countries that had ratified neither Convention No. 87 nor Convention No. 98. Universal ratification of the eight fundamental Conventions by 2015 should continue to be a goal and a priority for the ILO since those Conventions were about core values which should be shared globally and which all should work to promote and respect. Noting that some

countries remained very reluctant to ratify those Conventions, the focus on actual respect for and implementation of the principles and rights covered in the Conventions should be intensified, keeping in mind that those principles and rights were valid even for countries which had not ratified them. It should be acknowledged that many non-ratifying countries had recognized FPRW in national constitutions, laws or regulations or their policy. Statements regarding ratification intentions should be encouraged. As it was difficult to design one campaign that could address all the obstacles faced by countries, the reasons for non-ratification provided by them were useful to guide Office actions. Among the challenges regarding the respect, promotion and realization of FPRW, she highlighted the lack of public awareness, social and cultural traditions, economic circumstances and lack of capacity of government institutions, employers' and workers' organizations, which were all areas where the ILO could contribute and had useful experiences to share. Despite resource constraints as mentioned in Chapter 3 of the report, the Office had provided technical assistance in those areas, and it was crucial that it would continue to do so, especially when designing DWCPs with the national constituents. Although not all DCWPs would have to explicitly refer to FPRW, all should include activities related to their promotion. She concluded by stating that new standards regarding FPRW were not needed, could prove difficult to adopt and even more difficult to ratify, and risked weakening FPRW. Instead work should be focused on promoting and respecting the existing fundamental Conventions, including through the Standards Review Mechanism.

- 83.** The Government member of Norway emphasized that her country pursued a rights-based approach to decent work, as the four strategic objectives could not be achieved unless FPRW were respected. FPRW were human rights and part of Norwegian overall policy for development cooperation. All member States were urged to ratify the fundamental and the governance Conventions, though implementation was equally important. She considered standards-related action was at the core of the ILO's mandate and should be promoted as a top priority. The ILO should be the unchallenged organization to discharge such mandate. The ratification campaign had been successful especially regarding Convention No. 182, but 144 ratifications from 49 member States were still needed to reach the goal of universal ratification in 2015. The ILO's work on freedom of association and collective bargaining required strengthening, given that the related fundamental Conventions had the lowest ratification rate. Her country encouraged reflections on how to strengthen the budget for social dialogue and fundamental rights. Freedom of association and collective bargaining were important tools of a necessary democratization process and an important component of negotiated responses to the crisis in many countries. The cross-cutting nature of Conventions Nos 87 and 98 had to be recognized and special attention should be given to them since they were a precondition for social dialogue and played a crucial role for a successful implementation of the other core Conventions. Like gender equality, those Conventions should be mainstreamed into the ILO's strategic and programming framework. She highlighted the importance of examining the reasons for non-ratification and of identifying ways for the ILO to best assist these countries. To this end, lessons should be learned from cases in which the ILO successfully accompanied countries towards ratifying fundamental Conventions.
- 84.** The Government member of Brazil acknowledged the ILO's efforts to uphold human rights worldwide and to promote the universal ratification of the fundamental Conventions. In her country, since the adoption of the 1998 and 2008 Declarations, society as a whole became more aware of those Conventions. Government, employers, workers, academia, legislative and judicial representatives, press and public opinion in general had joined efforts to raise awareness and support the strengthening of FPRW. Brazil had ratified most of the fundamental Conventions. Although it had not ratified Convention No. 87, which would require a revision in the Federal Constitution, the principles on that subject included in the Constitution of the ILO and in the 1998 Declaration were fully respected and the Government continued to promote dialogue on FPRW. Progress in many countries was due

to the ratification campaign, and in the current economic context it was essential to strengthen the implementation of FPRW, which were the foundation of a fair and equitable globalization.

- 85.** The Government member of Mexico called for action to redress the existing imbalance in ratifications between the core Conventions and for technical assistance to support the various FPRW. While his Government considered universal ratification to be a priority, ratification alone was not a guarantee of principles and rights and the follow-up mechanism was critical in this respect. More details were needed on the non-ratifications, which could be collected annually by a reinforced supervisory mechanism. This would allow the Office to identify how to reallocate resources and assistance. There were Conventions that complemented the fundamental principles and rights at work: these were not the core Conventions and should not be mixed with these.
- 86.** The Government member of the United States voiced her Government's strong support for the ILO's work on FPRW. She noted that ratification of the core Conventions was not a goal in itself; it reflected a member State's commitment to these principles and rights; the test was in how a country's law and practice made the principles and rights a tangible reality for workers. Her Government was not opposed in principle to a ratification campaign but considered assistance towards implementation of FPRW for all countries to be the best use of resources, in particular through capacity building for labour administration, labour inspection and the social partners.
- 87.** The Government member of Canada welcomed the high ratification rates and commended the objective of universal ratification. The real goal, however, was the implementation of the rights embodied in the fundamental Conventions. Resources should thus be allocated to assisting member States in their realization and implementation, giving priority to those countries in greatest need. The Office should monitor this progress and thus its success. She highlighted the role of the DWCPs in helping to encourage ratification and implementation. Abuses of fundamental principles and rights at work should be addressed by the ILO at the highest political level and social dialogue should be encouraged. The supervisory bodies had a key role and should be adequately resourced. For those countries with technical barriers, practical approaches and advice were needed to facilitate ratification.
- 88.** The Government member of Kenya aligned his Government's position with the statement made by the Africa group and stated its commitment to the fundamental principles and rights at work which were embodied in Kenyan labour law and its Constitution. However, the ratification of Convention No. 87 was beyond his Government's control as there was no agreement on this from the social partners. He asked for the ILO's technical support and affirmed the commitment of his Government to continue negotiations.
- 89.** The Government member of New Zealand spoke on behalf of ASPAG, affirming the group's respect for FPRW despite technical problems in the region. Ratification was an important step but not a goal in itself, and not the only yardstick by which to measure success. Effective application through the development of labour law and its implementation at the national level was critical. Timelines for ratification were not helpful as the pace of adaptation and implementation was determined by national circumstances. There were two areas for initiatives: respect for the fundamental principles and rights at work, and technical assistance and capacity building for member States.
- 90.** Speaking on behalf of the Government of New Zealand only, he acknowledged the level of agreement voiced by the Committee thus far. Responding to the Employer Vice-Chairperson, who had used the example of New Zealand's non-ratification of Convention No. 138, he identified two reasons for countries' difficulties: policy and

capability. His Government followed the principle that standards should be flexible enough to be applied in different national circumstances and its policy was to only ratify a Convention if it could apply it fully. Because of the issues around the legal interpretation of Convention No. 87, this Convention was also not ratified. Other countries experiencing capability problems needed a more enabling environment, something that the ILO could not deliver. However, the ILO could use the supervisory mechanism both to monitor ratifying countries, and to ask non-ratifying countries to demonstrate what they were doing in practice to implement FPRW. His Government endorsed technical assistance and considered this a precondition to ratification, not something to be offered after the fact. DWCPs could help develop the right conditions for ratification and implementation.

- 91.** The Government member of Bangladesh supported the ASPAG statement and recognized that the ratification campaign had been most successful in the area of child labour, but it was time to reorient the campaign to address the realities on the ground for those countries that had not yet ratified the relevant Conventions, basing this on in-depth study of these national situations. Funds should be channelled to promoting the realization of the Conventions, though such funds should be adequately and predictably financed. The ILO needed to show sensitivity to national circumstances and have a greater understanding of the priorities on the ground, rather than a prescriptive approach. Common elements should be identified in the action plans so that an integrated framework was adopted, finding synergies for optimal results rather than singling out non-ratified standards. The role of the supervisory bodies was absolutely critical to the promotion of the fundamental principles and rights at work, although there was a long-standing demand in connection with the Conference Committee on the Application of Standards to strike a balance between fundamental and technical Conventions, and also equal emphasis on the various fundamental Conventions. New standard-setting initiatives deserved consideration. This should be done pragmatically, with thorough contextual discussion in the Governing Body.
- 92.** The Government member of Uruguay highlighted that respect for fundamental principles and rights at work were well embodied in international law, arguable at the level of *jus cogens*. He agreed with other speakers that the importance of these principles and rights was also illustrated by the fact that they were widely recognized in national constitutions. In times of crisis, there was a risk that these be violated or infringed. He voiced his Government's support for ratification campaigns to raise awareness and to encourage discussion and promote respect for fundamental principles and rights at work by governments.
- 93.** The Government member of Egypt considered that there was an increased risk of infringement of rights and principles in the current crisis and of growing inequalities. Achieving universal ratification by 2015 would be a huge challenge. Convention No. 87 was the most important standard and the *sine qua non* of social dialogue, yet 50 per cent of the world's workers were not protected under the Convention and were even more vulnerable during the crisis. The Declarations of 1998 and 2008 had affirmed the centrality of fundamental principles and rights at work in achieving a fair globalization. Ratification of all eight Conventions was needed in order to guarantee the rights of workers everywhere. The supervisory mechanisms ensured implementation and helped identify obstacles. Social dialogue was also essential to implementation of FPRW.
- 94.** The Government member of China recalled paragraphs 35–38 of Report VI which concluded that non-ratification was for one of three reasons: lack of capacity, lack of intention or national legislation that was not consistent with the standard. Research and technical cooperation would help ascertain whether ratification obstacles were real or based on misunderstandings. He echoed the observation made by other speakers that non-ratifying countries recognized equality, freedom of association and the right to collective bargaining in their constitutions. His Government agreed that the ILO should

attach more importance to implementation and the effects of fundamental principles and rights at work. It should be a priority to achieve universal fundamental principles and rights at work for all workers.

- 95.** The Government member of Senegal remarked that his Government had ratified all the fundamental Conventions. As it was, implementation was what really mattered, universal ratification did not need to be a priority. As all member States had an obligation to respect, promote and implement the core Conventions, none had an excuse for not doing so. The ILO needed to focus its efforts here, shoulder its responsibilities and envisage the possibility of taking further measures to ensure that its member States respected their obligations.
- 96.** The Government member of India confirmed his country's commitment to FPRW, noting that while ratification was one of the means to achieve the principles enshrined in the fundamental Conventions, it was not a goal in itself. Developing countries faced numerous socio-economic challenges with respect to universal education, health care, malnutrition and employment. They also had enormous resource challenges which potentially impeded the implementation of these Conventions. The ILO had to consider how to address this lack of resources in countries as one of the factors towards facilitating the ratification of these Conventions. Analysing the difficulties faced by member States was critical to enable the ILO to suggest practical solutions. The pace of ratification and implementation had to be considered against the specific needs and circumstances of countries, including the availability of resources. Prescribing timelines for universal ratification of the fundamental Conventions was potentially counter-productive and might defeat the purpose and objectives enshrined in these instruments. As such, he cautioned against adopting timelines for ratification, which was after all a legislative matter.
- 97.** The Government member of Chile noted that her country had ratified all eight fundamental Conventions and had incorporated them into national policy. This included changes to national legislation, as well as to the country's administrative and judicial machinery for the protection of workers' rights. Tripartite agreements had also been reached through social dialogue to support the implementation of these Conventions. Moreover, the labour directorate had introduced an entire procedure for dealing with FPRW. She concluded by noting that the main challenge her country faced was the application of these principles in the informal economy.
- 98.** The Government member of Trinidad and Tobago confirmed her country's strong support for FPRW and recalled that the principles were standards for conduct. As such, the ILO had a duty to engage in further awareness raising, particularly to encourage courts and tribunals to consider the fundamental Conventions when hearing and deciding cases. This was a potentially important means of promoting these Conventions.
- 99.** The Government member of Niger noted that his country had ratified all eight fundamental Conventions and strongly endorsed the 1998 and 2008 Declarations. Legislative reforms to incorporate international labour standards had been undertaken, including a bill on the agenda of the National Assembly that was meant to replace the current Labour Code. A number of complementary programmes had been carried out to promote FPRW including joint initiatives with the ILO such as PAMODEC,⁸ IPEC, PACTRAD⁹ and the

⁸ Support Programme for the Implementation of the 1998 Declaration on Fundamental Principles and Rights at Work.

⁹ Support project for combating forced labour and discrimination in Niger.

DWCP. Despite the renewal of the IPEC project, he regretted that the ILO seemed to have forgotten Niger in recent years. In a country as poor as Niger, it was not possible to effectively implement FPRW depending solely on its own resources. He hoped that Niger could rely for many years to come on the technical support of the ILO, in particular in finalizing its DWCP.

100. The deputy representative of the Secretary-General (Mr Kamran Fannizadeh) responded to a question posed earlier by the Employer Vice-Chairperson on the nature of a ratification campaign. Referring to paragraphs 224–226 of the Office report, he stated that since 1995 the Office had sent annual campaign letters to member States not having ratified all fundamental Conventions. Other examples of ILO ratification campaigns included the campaign for the ratification of the governance Conventions (Nos 81, 122, 129 and 144) launched following the adoption of the 2008 Declaration as well as the campaign regarding the occupational safety and health Conventions. Promoting ratification of Conventions was not confined to formal campaigns, but also involved technical assistance and cooperation delivered by the ILO as a means to build constituents' capacity based on identified needs and requests in areas such as labour law reform, advocacy and training. These served as powerful opportunities for promoting the ratification of the fundamental Conventions. Another tool available was the Annual Review procedure, which included asking countries about the difficulties faced in ratifying and implementing these Conventions, as well as identifying technical assistance needs and existing national plans and programmes. The ILO maintained a public online database featuring this information and provided annual summary reports to the Governing Body. This information also assisted the ILO in tailoring its technical assistance based on the actual circumstances described by member States. Given that the database also provided information on ratification intentions, the annual campaign letter had been discontinued more recently. The Committee's discussion had shown that there was strong interest in capacity building, based on the conviction that ratification was not an end in itself and that full implementation was the ultimate goal. In this regard, the Office recognized that studying and analysing the situation of member States that had not ratified all of the fundamental Conventions was important in order to create a basis for better responding to their needs.

101. The Worker Vice-Chairperson welcomed the broad interest shown by governments on point 2. He emphasized that the workers' priority was not only on the ratification or implementation of fundamental Conventions, but rather on both aspects towards achieving the goals of FPRW. Indeed, ratification was not an objective on its own, especially when one considered indicators that showed serious gaps between ratified standards and their implementation. Nevertheless, ratification was an important normative function of the ILO and achieving universal ratification of fundamental Conventions remained a major goal, in that it underlined the ILO's continued relevance and authority in the multilateral system. The Office report and the Committee's discussion touched on the lack of adequate financial resources for the ILO in many countries as an obstacle to capacity building for effective implementation. While recognizing this constraint, he suggested that more effective use of existing resources could be achieved. The workers' emphasis on Conventions Nos 87 and 98 did not mean that there was any less emphasis on the other fundamental Conventions. He acknowledged the progress made as regards information available on the ILO website on the ratification and implementation of Conventions by member States, although further efforts could be made to facilitate easy access to information on overall progress in the realization of FPRW. The plan of action needed a chapter on monitoring and follow-up tied to appropriate indicators. Information generated by the ILO's supervisory machinery should be made available in synthesized and accessible manner to showcase success stories, as well as challenges in order to guide technical cooperation and assistance. He highlighted the Government member of Canada's suggestion that obstacles to ratification should be better identified to enable the ILO to design more targeted technical assistance. In this respect, as pointed out by the

Government member of China, the ILO should work to identify and assist in resolving any inconsistencies between national law and practice and fundamental Conventions, and any misunderstandings that may exist in this regard. He called for universal ratification by 2015 as a target and remained optimistic that it was achievable.

- 102.** The Employer Vice-Chairperson noted that there was a great deal of consensus among Committee members that ratification was an important indicator of commitment, although not the only one, and that what ultimately mattered was implementation of FPRW. Governments were committed to respecting FPRW, while relying on various approaches. As experience since 1998 had shown, promoting respect and realization of FPRW had led to an unprecedented increase in ratifications. This showed that promotion of ratification of fundamental Conventions and promoting implementation of FPRW, more generally, were indeed mutually supportive objectives.

Point 3: Effective realization of FPRW at the national level

- 103.** The Chairperson opened point 3 for debate and welcomed the Secretary-General of the Conference who had come to attend this discussion of the Committee.
- 104.** The Worker Vice-Chairperson observed that point 3 overlapped some of the Committee's previous discussion on universal ratification, so he wished to focus on difficulties involved in realizing FPRW. Freedom of association must be recognized as a universal right for workers and employers, and this was well documented in the report, but serious difficulties were still impeding it. Trade unionists in countries that had ratified the core ILO Conventions were still murdered, detained or fired from their job, and trade union activities and peaceful demonstrations were often suppressed. There was also an explicit exclusion from labour legislation in many countries for certain categories of workers, such as public employees, agricultural workers, workers in the EPZs, migrants, temporary and agency workers and, in particular, domestic and independent/freelance/self-employed workers. Migrant workers were in a difficult situation also with regard to status in the country where they worked. It was noted that, for domestic workers, much progress had been made, especially with the adoptions of ILO standards in 2011. Discrimination against unions was still prevalent, as evidenced by the fact that 24 per cent of cases submitted to the Committee on Freedom of Association from 2007 to 2011 concerned anti-union discrimination. That statistic emphasized the lack of supervisory procedures, remedies and labour inspection. The way to break that climate of impunity against unions was to establish effective remedies through using the courts and tribunals so that workers' rights were re-established, compensated and penalties imposed and dispute resolution procedures developed. In that regard, the slow nature of the procedures was a cause for concern. With the economic crisis, the membership of trade unions had slowed – partly as a result of employers' recourse to outsourcing, subcontracting, offshoring, temporary and agency work – and, as there were thresholds for union membership in workplaces for the purpose of establishing collective bargaining, that was increasingly a cause for concern. That trend created a movement towards deregulation of employment and of collective bargaining and the use of its processes to circumvent or sideline trade union representatives. The use of subcontracting and of temporary and agency workers was another obstacle, as it was often difficult to identify the real employer with whom to negotiate and to ensure the effective right to organize such workers. Although the role of small and medium-sized enterprises (SMEs) in the economic recovery from the crisis was important, collective bargaining was generally weaker in those firms than larger ones.

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- 105.** The Worker Vice-Chairperson cautioned that despite the high level of ratification of Convention No. 111, the wage gap between men and women persisted, often due to sexist prejudices, occupational segregation, job and wage structures that gave precedence to male-dominated occupations. There was much scope for action before non-discrimination could be achieved. The economic crisis had led to an increase in non-standard forms of employment, where discrimination was stronger, especially affecting women, young people and migrants. Forced labour often occurred in non-standard forms of employment. That called for an examination of the complementarity of other standards not included under FPRW. For example, the Employment Policy Convention, 1964 (No. 122), contained the right to productive and freely chosen employment, while the Employment Relationship Recommendation, 2006 (No. 198), was also important for the effective implementation of fundamental principles and rights.
- 106.** The informal economy was of great concern, as were the figures on forced labour provided by the Office at the opening session. Great effort should be made on preventing forced labour, and on providing better compensation for the victims of trafficking. Migrant workers often fell into that category, especially in times of crisis, and therefore did not benefit from fundamental principles and rights. The Committee should examine how it could promote the Migration for Employment Convention (Revised), 1949 (No. 97), and prevent misleading propaganda against migrant workers and migrants in general.
- 107.** In addition to preventive action, governments should promote freedom of association and collective bargaining, particularly at the workplace and in respect of trade unions and employer organizations. Experience had showed how the existence of trade unions and the ability to engage in collective bargaining had led to progress on FPRW. Governments should be urged and given assistance to overcome legislative obstacles to freedom of association, especially in terms of the exclusion of certain categories of workers. Effective application of the law and more labour inspections would help strengthen social dialogue. Information and training should be provided for judges dealing with complaints on non-respect of FPRW at the national level, including training on existing standards and their application. Some countries had set up independent authorities, in charge of campaigns to combat discrimination and inequalities and to provide assistance to victims. Information campaigns on FPRW to combat discrimination and promote equality and the implementation of core ILO labour standards should be carried out in the media, schools, colleges and elsewhere. He identified the need to address the increasing presence of outsourcing and the use of temporary and agency workers. It was difficult to implement the right to collective bargaining in such circumstances, as the direct employer was not always identifiable, and therefore work should centre on identifying the appropriate partners for collective bargaining. In terms of precarious work, the impact of and remedies for non-standard and precarious work, in terms of the realization of FPRW, should be identified. A tripartite meeting of experts on the impact of atypical and precarious work on FPRW and on measures to address such problems might be a first step in that process. Regarding temporary migration, Convention No. 97 should be promoted for ratification and implementation, to improve the current circumstances of migrants, who were often treated as scapegoats for the crisis and who lacked protection, especially on fundamental principles and rights.
- 108.** An ILO programme to strengthen labour inspection was needed. Training should be provided for judges receiving complaints from individuals, and capacity-building programmes should be devised to allow worker organizations to broaden their involvement in the organization and unionization of workers, especially among certain categories such as public service workers, agricultural workers, workers in EPZs, precarious workers, migrant workers and domestic workers. The ILO should support public information campaigns through their country offices and in educational institutions. Finally, the ILO

supervisory machinery should be strengthened in order to speed up procedures, especially with regard to the application of FPRW.

- 109.** The Employer Vice-Chairperson believed that point 3 was the most challenging of all, in that it went to the heart of the 1998 Declaration looking at the effective realization of fundamental principles and rights at the national level. On that subject, care should be taken to differentiate between the policy drivers that led to the achievement of FPRW and the legal mechanisms that could vary according to national circumstances. He considered that the lengthy shopping list of actions outlined by the workers should be reviewed in order to identify priorities towards achieving FPRW. Additional information relating to new data on forced labour had been provided to the Committee by the Office, which suggested that the area of human trafficking required greater attention. The fact that human trafficking accounted for half of all forced labour provided a different slant to 1930, when the Conference adopted Convention No. 29 on forced labour.
- 110.** He had been present when the question of gender equality was first discussed by the Conference in 1985. Although there was still room for improvement, substantial progress had been made, particularly in terms of the proportion of women in jobs and in the wage gap, which had narrowed considerably from 59 per cent to 78 per cent of male wages. A better understanding of that was necessary and had not been fully explained in the report.
- 111.** The Employers' group approach differed from the Workers as regarding the facts on vulnerable groups. The world of work was evolving quickly and non-traditional forms of work were a reality for an increasing proportion of the workforce, especially for younger workers, who fully recognized these changes, and knew that they would have more employers than their parents had done. Each country had its national circumstances and sought to be a participant in the global economy. The ILO, as the global think tank of the world of work, needed to help them build capacity and understand those issues.
- 112.** The report included many angles to address different forms of work, such as temporary agency work and part-time work, but those forms of work were legal and highly regulated. The Home Work Convention, 1996 (No. 177), the Part-Time Work Convention, 1994 (No. 175), and the Employment Relationship Recommendation, 2006 (No. 198), covered different aspects of non-standard work. For the Employers' group, the report took insufficiently into account non-traditional forms of work which offered entry points to the world of work to categories of people – such as the long-term unemployed – that often encounter particular difficulties on the labour market. Due to their success in integrating people into the labour market, flexible forms of employment specifically helped the low-skilled to mitigate the risk of becoming stuck in unemployment. Fixed-term contracts gave newcomers a chance of being offered permanent employment, giving the example of Germany, where three years after starting a fixed-term work contract, two-thirds of entrants had moved on to an indefinite contract. This had been the case even in the crisis year of 2009, when every second job that had started as a fixed-term assignment had been converted into a permanent appointment. He underlined that, for the Employers' group, the conclusions should focus on the informal sector. He recalled that the ILC in 2002 had – in its conclusions concerning decent work and the informal economy – stressed that to promote decent work, it was necessary to eliminate the negative aspects of informality while at the same time ensuring that opportunities for livelihood and entrepreneurship would not be destroyed, and promoting the protection and incorporation of workers and economic units in the informal economy into the mainstream economy. In their opinion, the chapter on the informal economy did not elaborate sufficiently possible approaches to deal with the informal sector as well as the rest of the economy. The Office had received clear guidance regarding the informal economy in the 2002 ILC discussions, and the implementation of these conclusions in the past decade as well as the lessons learned from

implementation would have been important information when discussing a possible action plan, but had unfortunately not been provided. In order to bridge that gap, the Employers' group proposed organizing a meeting of experts on the informal economy. Furthermore, the issue of weak governance zones should be covered in the action plan, since they had a profound impact on the realization of FPRW. The ILC 2011 discussion on labour administration had stressed that fair, strong and effective labour administration and labour inspection systems were essential in establishing a framework for the realization of FPRW. He also considered it rather exaggerated to have a particular focus on EPZs rather than on the informal economy, and that the case had yet to be made that the situation in EPZs was worse than elsewhere in those countries, or that it was something specific to export that led to abuses in the majority of cases. Policies had to be in place for the creation of a legal framework that facilitated the transformation from informality to the formal economy, as well as the creation of a suitable environment for employment creation and growth that could facilitate such transitions.

- 113.** He stressed that the five points presented for discussion were the right ones. Regarding the measures that should be taken by governments to strengthen the effective realization of FPRW, it was important to have enabling conditions that would allow for their realization. The focus should be on the full involvement of social partners in the development and implementation of policies related to FPRW. This related to freedom of association but also to tripartism, which was necessary to achieve FPRW. Such participation should not only be at the national but also at the local level. Although the cornerstone approach to FPRW should be tripartite, he considered that, in some areas, bipartite negotiation could be part of the solution. Several Governments and Employers' representatives from developing countries had mentioned the need for financial support, but he added the need for a strong commitment to good governance, democracy and transparency, strong and effective institutions, including labour administration, labour inspection, dispute resolution as well as an independent judiciary; however, he noted that all this must be implemented in a manner appropriate to the country concerned. What might be appropriate for one country might not be so for another, which meant that the priorities of the Office in assisting member States' efforts depended very much on the needs of the national stakeholders. Given the great variation in national circumstances, it was difficult to make categorical statements. There was no one-size-fits-all approach. However, looking at the existing action plans for the four categories of FPRW, some measures were contained in nearly all of them, such as capacity building of constituents, improved data collection and research, advice on public policy and respective legal framework. These challenges required sufficient funding for the ILO, so that it could assist the constituents. More budgetary resources needed to be allocated to ILO activities, but a high level of donor support was also necessary. This mixed strategy required technical cooperation programmes to focus on delivering good outcomes and on a prudent use of resources. Capacity building of national social partners should be through institutions they trusted, which were ACT/EMP and ACTRAV, as well as the International Organisation of Employers (IOE) and ITUC.
- 114.** The Government member of France, speaking on behalf of the IMEC group, observed there were many challenges to the realization of FPRW common to the four categories. Those common issues should be identified and coordinated responses developed as a part of an Office-wide strategy. Recognizing that lack of enforcement was a key obstacle to the realization of FPRW, he believed the ILO should help member States build the capacities of labour administrations and strengthen social dialogue. To this end, the ILO should contribute by collecting and disseminating good practices that had proved effective at the national level and by assisting countries to adapt them to their circumstances. Member States should also be assisted on improving data collection and analysis, to overcome the deficit in statistics and data that was noted in the report, and which was impeding the development of appropriate policy responses.

115. The Secretary-General of the Conference thanked the previous speakers for their very informative presentations and remarked that the current discussion in the Committee on the adoption of a plan of action on FPRW for 2012–16 was essential for the future role and identity of the ILO, since the labour standards system was the backbone of the Organization. First, he underlined the particular importance of such a discussion on FPRW taking place in the current context of economic crisis and the increasing impact of globalization. Secondly, he stressed that, for the Office, it was crucial that the discussion was focused, specific and precise and that priorities were clearly identified, so as to be able to establish the appropriate measures and resources for accomplishing those priorities. The Office would be accountable for priority items, not for a lengthy list. Thirdly, on the question of the budgetary and extra-budgetary implications of the Committee's conclusions, activities within the regular budget would be taken on board by the Office, but extra-budgetary resources were more sensitive. In the past, much extra-budgetary support had been provided on child labour and on launching the 1998 Declaration. Despite the economic crisis, the ILO had managed to maintain steady levels of technical cooperation, although the resources did not match the volume of assistance requested. The areas of freedom of association and the right to collective bargaining had received less extra-budgetary funding to date. These were the nitty-gritty of the fundamental principles and rights at work and the areas that needed more support, but they were less attractive to donors. He called on the Committee to be very clear and precise in its requirements of the Office and how its plan of action should be budgeted. He gave an example of a possible proposal that would help shape the programme of the Office and which was not possible under the current budget. The Committee could request the allocation of unearmarked funds to a follow-up mechanism linked to the conclusions of the Committee on the Application of Standards: the countries which were identified in the 25 cases before the Committee could be offered technical assistance and the results could be reported to the Governing Body. Another example could be specific initiatives regarding the informal economy, which presented particular challenges to the realization of FPRW. Eight standards had been adopted since the 1998 Declaration which applied also to informal workers, and yet the current supervisory mechanism did not reach these workers. They could, however, be reached by policies to support and promote international labour standards. Such policies would need to be linked to create an integrated and coherent policy framework. Fourth, as regarding collaboration with the multilateral system, he confirmed that implementation of ILO work was raising the multilateral system commitment to labour standards and that there was now a general level of acceptance. However, more needed to be done to make sure standards were integrated at the national level, where the UN agencies and Bretton Woods institutions were active. He highlighted UNDP and the World Bank as important and well-resourced actors in this respect. Fifth, he recalled that a culture of compliance was a tripartite objective. Compliance could not rely on labour inspection alone, and could be backed up by action at enterprise level. He urged the Committee to think about how this could be developed at the national level, for example in terms of promoting a culture of compliance, and to take action through meetings and reporting. The time was ripe, as there was a general awareness of FPRW, with consumers increasingly interested in how and where their goods were produced. He concluded that consideration of FPRW was at the core of the work of the Conference, but the Committee's task was particularly important because of the moment in history in which it took place. The crisis was ongoing and was the context for the discussion. He called on the Committee to set priorities, identify indicators and objectives, and hold the Office accountable for its outcome.

116. The Government member of Zambia, speaking on behalf of the Africa group, offered specific proposals on measures to be implemented by member States. Given the success of the DWCPs in enhancing the realization of fundamental principles and rights at work, his group proposed a framework for technical cooperation that took these principles into consideration, extending this to the subregional economic communities in order to create

multiplier effects. The informalization and casualization of work was aggravated by the crisis and was of concern to his group. Legislative reforms were needed to address this, focusing particularly on labour broking, outsourcing and vulnerable groups. Member States should also organize advocacy and awareness-raising campaigns, ensuring national ownership of such campaigns. National legislation and constitutions should be aligned to FPRW, to enhance their efforts, and should cover vulnerable workers, such as migrants, children and domestic workers. Dispute resolution systems should also be strengthened, as had been done in Brazil, as should labour administration and labour inspection systems; these had a key role in terms of compliance within EPZs. In addition, the ILO should support African member States to strengthen labour market information systems, to better inform labour policy formulation. It should also support South–South triangular technical cooperation. Turning to the role of employers’ organizations, the group called on employers to adopt self-regulation measures, such as codes of practice, in line with the fundamental principles and rights at work. Both workers’ and employers’ organizations needed capacity building and awareness raising within their memberships, to help raise public awareness at the national level.

117. The Government member of South Africa supported the previous speaker, adding that the role of the social partners was integral to monitoring access to and enforcement of FPRW and the development of institutional frameworks for this important goal. These should include a representative national steering committee and technical implementation committee, supported by decent work teams. Promotion of a multisectoral approach to deal with the worst forms of child labour – involving several departments and agencies and the social partners – was essential, and should include conducting regular surveys on the activities of young people in order to intervene appropriately to achieve the 2016 objectives of the roadmap. Technical assistance from the ILO decent work teams was required in order to strengthen labour inspection systems and other enforcement agencies. Finally, ILO technical assistance was required to give explicit expression to the principle of equal pay for work of equal value and the effective elimination of discrimination in employment and occupation.

118. The Government member of Denmark, speaking on behalf of the EU Government members and Norway, focused first on the support that was needed by member States. She noted that there were both common issues across the four categories of FPRW and common vulnerabilities in certain economic sectors or among particular types of worker. Knowledge of these common challenges would better guide the work of the ILO. Effective enforcement was crucial and should be strengthened at the national level; the ILO could help in the implementation and enforcement of legislation, which should include accessible dispute-settlement mechanisms. Policy coherence was needed at the national level, including across ministries, to ensure effective implementation of FPRW. The ILO’s experience on different projects demonstrated that policies worked best when integrated with others, such as child labour with poverty reduction or social exclusion. The ILO had also been successful when promotional activities complemented the punishment of infringements of rights. It was therefore important to mainstream and integrate initiatives, but also to systematically collect and share knowledge from different programmes so that these experiences could be applied across categories. Better data collection and monitoring progress on the implementation of FPRW was needed to determine where and how these principles and rights were respected and to assist the Office in its work. Training and capacity building for the social partners and for labour administration and inspection systems was important for improving knowledge and comprehension of FPRWs, and should be a major ILO means of action. To improve the quality and policy relevance of the ILO’s work in this area, research and analysis should be supported as part of the ILO’s broader knowledge strategy. The EU agreed that a comprehensive knowledge base on each category of FPRW was needed, including a focus on the interaction of the four categories, to better understand the content of each FPRW as well as the linkages between them in

order to develop more coherent strategies. She recalled the importance of the tripartite constituents in creating a sustainable basis for future ILO work in this field and noted that the employers' and workers' organizations were in a privileged position to contribute to the full realization of FPRW.

- 119.** The Government member of the Republic of Korea noted that his country had promoted policies such as job-sharing in response to the current employment crisis. These responses were developed through tripartite partnership at the national level, a process that promoted both freedom of association and employment. The crisis affected mainly vulnerable groups of workers such as young people and low-skilled workers. It also had a negative impact on workers with weak employment protection including non-regular and part-time workers. In this context, he urged governments to provide support for vulnerable groups of workers in addition to promoting FPRW. His Government's recent efforts to promote FPRW included the introduction of enterprise-level trade union plurality in 2011. It had also adopted policies to address the situation of vulnerable workers, in particular dealing with non-regular work and youth employment. He called on the ILO to provide further assistance at the national level through technical cooperation programmes and noted that realistic solutions were required to address the challenges of atypical employment and export free zones, based on sound national-level research and analysis.
- 120.** The Government member of Australia considered that effective implementation and monitoring mechanisms were vital to ensure respect of FPRW. In this regard, she referred to Australia's laws, which established a system of collective bargaining, statutory entitlements and protections for workers. This legislation were enforced by independent bodies, which were also responsible for facilitating collective bargaining, resolving labour disputes and promoting a culture of compliance. Effective application of FPRW depended on the capacity of employers' and workers' organizations and on the willingness of governments to engage with the social partners whether in the development of laws or in their implementation and enforcement. This was reflected in the ILO's increased focus on technical assistance to build the capacity of employers' and workers' organizations as a key element in the application of FPRW. In this regard, she referred to the example of the Australia/ILO Labour Governance and Migration project in five Pacific nations, which had enhanced the role of the social partners in contributing to national social and economic development. The ILO's technical assistance remained a primary and effective means of action for the application of FPRW at the national level. The large number of requests for technical assistance remained a challenge for the ILO, particularly those requests from countries with serious challenges in implementing FPRW. The ILO's reliance on extra-budgetary resources to deliver this assistance negatively impacted the ILO's ability to meet these demands. Nonetheless, the ILO should continue to prioritize the delivery of demand-driven, targeted, national-level technical assistance. More would have to be achieved with fewer resources. The ILO should develop interventions that did not rely on resource-intensive national projects; it could develop a toolkit for member States to help realize FPRW, drawing on the ILO's existing wealth of knowledge and information on the subject. Such a toolkit could focus on each category of FPRW while at the same time reflecting the linkages between them. This was meant to complement rather than replace formal ILO country projects and would ensure the effective use of limited resources. South-South cooperation was also a cost-effective and sustainable means for sharing good practices and resources between similar countries that had success in implementing FPRW. She encouraged an emphasis on promoting the ratification of Convention Nos 87 and 98, since these standards focused on effective social dialogue, and could have a positive impact on the implementation of the other six fundamental Conventions. She supported the ILO's holistic approach to FPRW and concluded that the priorities of the ILO in this area must be justified, important and realistic.

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- 121.** The Government member of Mexico considered that the increase in atypical employment, the importance of the informal economy, the persistent exclusion of certain categories of workers and intense competition within the export sector increased the challenges towards the full application of FPRW to all individuals. These challenges required innovative responses, including the development of detailed statistics on the various forms of non-standard work, as well as on the unionization rates and the extent of collective bargaining coverage for atypical workers, both in emerging and industrialized economies. A knowledge base and studies could also be developed covering these new forms of work, including successful measures in some countries in regularizing employment relationships, labour inspection methods, models of collective agreements to promote employment security and equality of treatment and remuneration for workers engaged in non-standard employment.
- 122.** The Government member of Trinidad and Tobago highlighted the need for continued collaboration between governments and the ILO through its supervisory machinery to leverage the application of FPRW. Moral persuasion was important, but so was the gathering and sharing of information for the realization of these rights and principles. With respect to Convention No. 111, the rights and principles of non-discrimination needed to be strengthened in national legislation to ensure wider access to employment and occupation. In Trinidad and Tobago, some workers were not recognized as workers and, as such, did not have access to the courts without a decision from another body recognizing that they were in fact workers. She questioned if this too was not discrimination of a vulnerable group of workers. She concurred with the statement of the Employer Vice-Chairperson that social dialogue was an important institutional basis for the realization of FPRW at the workplace.
- 123.** The Government member of Senegal considered that governments should take further measures to ensure the effective and universal implementation of FPRW through the alignment of legislation promoting FPRW with international standards; through labour inspection at the local level to support workers; through specific regulatory measures to protect vulnerable workers (domestic, temporary, rural and migrant workers); and through ensuring that labour inspection authorities apply legislation and regulations concerning freedom of association and collective bargaining as well as better supervision of child labour, private employment agencies and outsourcing. Employers' organizations should ensure (including through awareness raising) that their members respected international and national legislation on FPRW, and understood the advantages of endorsing social dialogue. Workers' organizations should broaden trade union activity, including for the informal economy and vulnerable workers, and raise awareness through training and education. The ILO should provide technical cooperation to support member States in implementing FPRW and called upon member States to provide greater resources to implement FPRW.
- 124.** The Government member of Algeria echoed the statements by Senegal and Zambia on behalf of the Africa group. He noted that ratification demonstrated goodwill and commitment on the part of member States to implement and enforce legislation on FPRW through follow-up and labour inspection. Social dialogue based on tripartite consultations was considered to underlie all successful work in this area. In Algeria, tripartite social dialogue had enabled obstacles to be surmounted and led to a social pact between government and economic and social partners, which supported the harmonious balance of interests of the social partners, provided social stability and facilitated economic reconstruction programmes. He called upon the ILO to continue its technical cooperation to countries facing difficult times, and emphasized the need for instruments to be in place that covered FPRW.

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- 125.** The Government member of Brazil stated that to successfully implement FPRW at the national level, it was necessary to strengthen labour inspection in all countries to ensure the verification of the application and enforcement of FPRW in national legislation. National legislation needed to be updated to include vulnerable groups. Changes in the labour market were faster than changes in labour legislation. It was essential that employers' and workers' organizations should collaborate to boost the effectiveness of labour inspections. Opportunities for training and education should be provided within organizations and for workers in general. Workers that knew their rights were better able to ensure the implementation of FPRW, and the ILO had a number of tools for raising awareness. ILO priorities should be on technical support for labour inspection and inspectorates for countries that requested it; training for employers' and workers' organizations on collective bargaining and on FPRW; and a meeting of experts on how to establish better employment relationships.
- 126.** The Government member of China referred to the Rainbow programme in China for 2010–12, which aimed at the implementation of a system of collective contracts for enterprises that had a trade union, and had achieved 80 per cent of its objective. The ILO was requested to provide technical assistance for training and capacity building on labour inspection and collective bargaining with regard to ratified Conventions.
- 127.** The Employer Vice-Chairperson noted the wide array of suggestions, ideas and strategies: the challenge for the drafting group would be how to bring them together in a prioritized action plan.
- 128.** The Worker Vice-Chairperson requested more technical cooperation, capacity building, training for trade union officials, labour inspection and enforcement. New avenues were proposed by workers, employers and governments and those needed fleshing out in the action plan for implementation by governments and social partners. The key role of trade unions, employers and social dialogue was highlighted, and freedom of association and collective bargaining were considered crucial to the enforcement of FPRW. There was need for vigilance about the development of new forms of precarious work aimed at reducing labour costs through informal and temporary work as well as outsourcing, which had negatively affected workers' rights. He welcomed the idea that national coherence should be strengthened through better coordination amongst ministers. The suggestions on the development of a toolbox based on knowledge and data needed to be fine-tuned. The Workers' group supported proposals for a meeting of experts on regulating the effective application of FPRW regarding discrimination and disguised work. Technical assistance for capacity building of social partners should help governments to invest more in implementing of FPRW. It was important to raise public awareness on those principles, including promotional activities in developed countries, where many still lived below the poverty line; effective implementation of freedom of association and collective bargaining remained the top priority.

Point 4: Enhanced mobilization and coordination of ILO means of action regarding the realization of FPRW

- 129.** The Executive Director of the Employment Sector (Mr Salazar-Xirinachs) presented concrete examples of how the Employment Sector supported FPRW within the Office and through external partnerships. On freedom of association and collective bargaining, the Office implemented a joint programme to strengthen organization for workers in the informal economy which was acknowledged as a powerful model. Case studies were carried out on collective bargaining agreements covering workplace learning to establish the impact on employability and productivity. SMEs posed certain difficulties in enforcing

these two principles given their large numbers in the market and their informal nature. To address that, the ILO integrated FPRW in its SME promotional programmes, including a training programme for factory counselling and a variety of training programmes on entrepreneurship. With respect to forced labour, the Employment Sector worked with governments to ensure private employers played an active role in preventing human trafficking. Another project worked with a network of microfinance institutions to prevent bonded labour and debt bondage, as well as initiatives to combat child labour. The sector worked with IPEC and incorporated informal apprenticeship systems in projects to help rehabilitate former child labourers. Awareness-raising campaigns were implemented about financial services and incentives provided to stop using child labour. The elimination of child labour was advocated to promote women's entrepreneurship in rural areas and in response to natural disasters and reconstruction. The sector's largest contribution was in support of non-discrimination and gender equality. In alignment with the priorities set out in the Action Plan on the elimination of discrimination in employment and occupation, a strategy for gender mainstreaming was published in 2011. Through that strategy, the promotion of gender equality was integrated in all means of action, including research, technical cooperation, policy advisory services and capacity building. The Employment Sector regularly collected and published sex-disaggregated labour market data and related analysis. Other activities included support to countries drafting employment policies, capacity-building activities and projects that targeted around 60,000 women entrepreneurs since 2009. The Employment Sector also supported the joint implementation of FPRW through a variety of Office programmes and partnerships. To help implement the MNE Declaration, a Helpdesk was established that provided guidance on the application of the principles. Work with the UN Global Compact provided the Office with an opportunity to improve ILO outreach on FPRW to a large network of companies. Under the Global Jobs Pact, the ILO and the World Bank collected data through a questionnaire addressed to member States, including a section on international labour standards and FPRW. That data was published and was the largest database in the world on crisis response measures. Finally, the development of a diagnostic tool for country scans was under way and included a review of the ratification and implementation of labour standards and FPRW. Each chapter in the Office report for the recurrent discussion on employment in 2010 had included a section on the inseparable, interrelated and mutually supportive nature of the work of the Office. The conclusions resulting from the 2010 discussion included several elements promoting FPRW. More recently, the Employment Sector had coordinated the Office's consultations with the World Bank on *2012 World Development Report*, which would highlight FPRW. In addition to the fundamental Conventions, the various departments in the Sector had responsibilities regarding other international labour standards, for which they worked closely with various units in the Standards Sector. For instance, ratification and implementation of Convention No. 122 was actively supported and the sector also had a programme to fight discrimination against persons with disabilities. In conclusion, not only did work on employment support work on FPRW, but also the reverse was true in providing an enabling environment to achieve employment objectives. He looked forward to the Committee's guidance on ways to build greater synergy with the Standards and Fundamental Principles and Rights at Work Sector to further strengthen respect and implementation of FPRW, which could in turn improve the design, implementation and impact of employment policies and programmes.

- 130.** The Executive Director of the Social Protection Sector (Mr Diop) posited that the linkages between social protection and FPRW were particularly strong. The sector's action to help constituents apply FPRW covered a number of areas. Regarding freedom of association and the right to collective bargaining, he highlighted ongoing work under the ILO's strategy for action to make decent work a reality for domestic workers. Several projects promoted organization of domestic workers, such as in Hong Kong, China, or Central America where the ILO had recently organized a regional knowledge-sharing forum. Another project supported trade unions in protecting the rights of migrant workers in

Cambodia, Lao People's Democratic Republic, Malaysia, Thailand and Viet Nam. In addition, ILO technical assistance on social security provided concrete support for freedom of association through emphasizing the participation of protected persons in the management of social protection regimes. Regarding discrimination, he referred to the sector's support to member States, for example China, Dominican Republic and Senegal, to undertake studies or develop specific protection mechanisms against discrimination based on HIV status. Work on maternity protection contributed to gender equality, while efforts were made to eliminate discriminatory practices through assistance in designing social security schemes. Furthermore, the Office had developed a guide on equal pay aiming to promote a better understanding of the principle of equal remuneration for women and men for work of equal value, in an effort to strengthen the application of Convention No. 100. The Global Wage Reports had highlighted causes of the gender pay gap and technical assistance on minimum wages alerted to the importance of ensuring that minimum wages in female-dominated sectors were established free from gender bias. Discrimination was also addressed in the sector's work on migrant workers. Effective social protection systems were key in doing away with child labour, as shown by evaluations of conditional cash transfer programmes which highlighted the link between income security and school attendance among children. An ILO study in Chile had shown the link between social protection and decreasing child labour. The ILO had provided technical assistance in drafting lists of hazardous work, and provided recommendations linking the improvement of health and safety at work and the elimination of child labour. Regarding the elimination of forced labour, the absence of legislation on living and working conditions and effective enforcement mechanisms was one of the root causes of domestic workers being vulnerable to becoming victims of forced labour. Two new publications, *Domestic Workers Across the World: Global and regional statistics and the extent of legal protection* and *Effective Protection for Domestic Workers: A guide to designing labour laws* respectively contributed to establishing a global knowledge base on legal protection for domestic workers helped constituents fill protection gaps. The ILO efforts helped reform the *kafala* system in some Gulf States, which had been associated with violations of migrant workers' fundamental rights. An ILO project on forced labour and human trafficking among Indonesian domestic workers working at home or abroad had helped strengthen the capacities of trade union confederations in terms of advocacy and unionization. Action against forced labour had also figured in the Sector's Programme on HIV/AIDS and the World of Work, which provided technical support for a joint UN Declaration demanding the closure of detention and rehabilitation centres for drug addicts. In conclusion, he stated that despite a considerable level of coordination and synergies within the Office, there was room for further improvements.

- 131.** The Executive Director of the Social Dialogue Sector (Ms Polaski) highlighted that social dialogue was aimed at achieving goals and objectives on FPRW by involving the main economic and social actors in the development of policy. Tripartite and bipartite consultations improved prospects of solving problems to meet the needs of actors in the real economy and helped governments achieve social cohesion and positive social outcomes on a whole range of economic and legal issues, and in terms of FPRW. Another link to FPRW was provided by the fact that social dialogue was underpinned by two of the principles and rights, namely freedom of association and collective bargaining, which helped to develop and strengthen the social partners; and in turn social dialogue helped build consensus on national policies on labour, including FPRW. The Social Dialogue Sector worked towards the promotion and realization of FPRW through all its departments. ACTRAV and ACT/EMP played a key role in strengthening the capacity of workers' and employers' organizations and promoting FPRW. The Labour Administration and Inspection Programme worked to help line ministries make institutions more effective in promoting FPRW and building inspections systems. The Industrial Relations and Employment Department worked with constituents to achieve respect for FPRW, and its labour law reform unit helped constituents improve the legal framework with regard to

FPRW. Specific examples of work carried out by the sector included the promotion of policies and mechanisms on freedom of association and collective bargaining in countries such as Viet Nam, and to strengthen the capacities of the parties in Armenia, Kazakhstan, Morocco, Tajikistan, United Republic of Tanzania and Zimbabwe. Labour inspection capabilities were strengthened in a number of countries and the ILO had worked on training tools, including new handbooks for labour inspections on forced labour and human trafficking, and on gender equality, and revisions in conjunction with IPEC of handbooks on monitoring child labour, respectively, used in a number of countries. It had supported an initiative by the labour inspectorate of Brazil to improve South–South cooperation to combat forced labour and child labour. The Sectoral Activities Department (SECTOR) was working with the International Labour Standards Department (NORMES) and other departments on promoting FPRW in the public service sector through the promotion of the Labour Relations (Public Service) Convention, 1978 (No. 151), in several countries. It was also working on social dialogue and collective bargaining in respect of private employment agencies and their workers. SECTOR and NORMES had developed and continued to work on the Maritime Labour Convention, 2006, and the Work in Fishing Convention, 2007 (No. 188), to consolidate ILO standards and promote FPRW in the shipping, ports and fisheries sector. Work was undertaken with the standards and fundamental principles and rights sector and the Food and Agriculture Organization (FAO) on child labour in the fishing sector, in addition to the TRIANGLE project to address forced labour and trafficking in that sector. SECTOR also supported IPEC initiatives to stop child labour in the tobacco industry in Brazil and in the construction sector in Haiti, and had also played a key role in carrying out the ILO’s mandate to improve collaboration and develop new partnerships with non-state economic actors operating at the global sectoral level.

- 132.** She noted that the Better Work programme – a joint initiative of the ILO and the International Finance Corporation, which was the private sector lending arm of the World Bank – provided an example of collaboration between the ILO and other international institutions, as encouraged by the 2008 Declaration. It also responded to the Declaration’s call for the ILO and its constituents to develop new partnerships with non-state economic actors, such as multinational enterprises and trade unions operating at the global sectoral level, in order to enhance the effectiveness of ILO operational programmes and activities. The Better Work programme brought together governments, employers engaged in international supply chains, multinational buyers and trade unions to improve compliance with FPRW in the garment export sectors of Cambodia, Haiti, Indonesia, Jordan, Lesotho, Nicaragua and Viet Nam. Through monitoring of FPRW, as well as national labour laws, Better Work provided information about the compliance of particular factories with laws and conditions that were demanded by buyers in the global supply chain. It helped factories through advisory services and training to come into compliance and helped workers to participate in achieving compliance with FPRW and related labour laws. Better Work also assisted labour ministries to build capacity for labour inspection, mediation and dispute resolution, including disputes related to FPRW. One example of the importance of collaboration with other ILO departments was from Bangladesh, where DECLARATION had been working with the social partners to address labour law reforms so that the Better Work programme could be put in place.
- 133.** The Employer Vice-Chairperson welcomed the impressive catalogue of action and activities that each of the Sectors had to address on FPRW. He asked the Executive Director of the Employment Sector to comment on the Employers’ group view that economic growth not only facilitated the implementation of FPRW but also enhanced it. Addressing the Executive Director of the Social Protection Sector, he considered that social protection was fundamental to accelerating the implementation of FPRW and stressed that all rights included in the Universal Declaration of Human Rights needed to be respected. On the work of the Social Dialogue Sector, he recalled the essential need for social dialogue, both bipartite and tripartite, and the importance of reinforcing the capacity

of labour administration and labour inspection. He considered Better Work to be a well known brand to the private sector and a good trademark, and was interested in hearing the views of the Executive Director of the Social Dialogue Sector on the expansion of the programme to areas other than the textile industry.

- 134.** Mirroring the question asked by the Employer Vice-Chairperson, the Worker Vice-Chairperson asked the Executive Director of the Employment Sector whether he considered that economic growth was a condition for the achievement of FPRW, or whether policies that promoted the effective implementation of FPRW were a source for the reorientation of employment policies towards the goal of employment creation and economic growth. He asked the Executive Director of the Social Dialogue Sector for her views on providing support to governments for reforms of legal and judicial systems, and about the nature of the various labour dispute resolution mechanisms.
- 135.** The Executive Director of the Employment Sector stated that the relationship between economic growth and democracy, including respect for rights and the rule of law, was often debated. On one hand, he considered that economic growth led to an upgrade not only in production but also in governance. On the other hand, the improvement of legislation and the implementation of FPRW could also be very positive for economic development. He concluded that there was a mutually reinforcing process of both sides of the causality.
- 136.** The Executive Director of the Social Protection Sector welcomed the comment from the Employer Vice-Chairperson about linking social protection, FPRW and human rights. He stressed the importance of talking about economic growth, as well as social growth, and considered that FPRW and social protection should become part of the indicators of development.
- 137.** The Executive Director of the Social Dialogue Sector underlined that there had been an effort to strengthen the existing mechanisms for the ILO to deliver support to strengthen labour administration and labour inspection. She noted that the general discussion at the ILC in 2011 had been decisive to move ahead. ILO assistance on dispute settlement was indeed crucial. In many labour administration systems, tribunals played an important role. Arbitration councils were also a possible mechanism, but they should not function within that separate normative framework and feed into the regular mechanisms. Regarding a possible extension of the Better Work programme to other sectors, she indicated that presently the focus was on consolidating and expanding the current experience, while a broadening of the programme could be considered in the future.
- 138.** The Employer Vice-Chairperson outlined his group's top two priorities for a plan of action, which would help the Office and its new Director-General marshal scarce resources to best effect. The first priority was that Office action was to be based on Members' needs, as envisaged in the 2008 Declaration; the second was the facilitation of a conducive environment, including through capacity building. The present discussion allowed a review of all four categories of FPRW together, suggesting potential synergies. These interlinkages could be further strengthened by improved cooperation between programmes and Sectors, to break down any silos that may exist. The Employers' group suggested that one way to overcome such divisions and reinforce coordination would be to appoint a "FPRW Tsar" at the highest level. Another area of possible improvement was enhanced coordination of technical cooperation, within the ILO and between the ILO and other agencies to avoid duplication of effort and wasting resources. In addition, other organizations often worked with non-governmental organizations rather than with the representative employers' and workers' organizations, undermining the social partners and questioning the legitimacy of the projects themselves. The Office should be a close ally of the social partners: the ILO representative in Brussels had positively influenced the EU

institutions in this regard, for example. Sustainable funding for activities could be achieved through public–private partnership, but the ILO needed to do its homework before it could tap this huge potential. It needed staff who could speak to business; in his personal experience, the Employer Vice-Chairperson had found that IPEC did this well. Such partnerships were appropriate to solve identified problems through technical work, and not be involved in policy work. Indeed, public–private partnership required a clear strategy, framework and targets. ACT/EMP, ACTRAV and the national employers’ federations should all be involved in PPPs. DWCPs had their priorities set by the constituents and it should be clear that while these might include the promotion and application of fundamental principles and rights, it might not be the case if this interfered with the success of the programme. Overall, work with regard to the fundamental principles and rights at work needed to be stepped up and it needed to be extended to include the informal economy. On the Annual Review mechanism, two elements should be differentiated, namely reporting and the promotion of ratification. In terms of the proposed structure for a plan of action, the Employers’ group had suggestions which were broadly in line with those of the Workers. The introduction should be a powerful statement on the importance and relevance of FPRW, and should energize and invigorate the programme; it should stress the interconnectedness of the four categories and the importance of a conducive environment. Another section should address the obligations of governments and include reference to policy work, including law and practice, and to institutions such as an independent judiciary, labour administration, and tripartite consultation on the implementation of legislation. The role of the ILO would be to conduct needs assessments and on that basis offer capacity building, data collection and research, advice on public policy and legislation, mobilization of resources, and strengthening partnerships and strategic alliances. The guidance included in a new comprehensive action plan should be based on the four existing action plans, as well as on previous Governing Body and ILC decisions.

- 139.** The Worker Vice-Chairperson noted that point 4 largely encompassed implementation. The Workers’ group had identified two priorities: first, achieving universal ratification and implementation of FPRW standards, and, second, restoring balance between the categories and reasserting the importance of freedom of association and collective bargaining. The latter rights were a cornerstone of the ILO, giving it legitimacy and clout internationally in terms of social justice, and were crucial to capacity building in this and other fields. In this respect, a meeting of experts should be held to analyse the relation and impact of certain forms of work which were more recently developing on the enjoyment of freedom of association and collective bargaining and other FPRW. This suggestion did not preclude the Employers’ group’s proposal to study the informal economy. The latest figures on the extent of forced labour presented by the Office were disturbing. Clearly, despite the very high rate of ratification of Convention No. 29, there was difficulty in moving towards ending forced labour in practice. The Committee’s conclusions should therefore refer to the need to step up the battle against forced labour and should offer the possibility of a new instrument, such as a Protocol. Systems should be set up to protect victims, in terms of prevention, rehabilitation and compensation. A more determined and proactive approach was required to address human trafficking for labour exploitation. An area of further action was the strengthening of systems for the resolution of individual labour disputes as a means to ensure effective implementation of FPRW. Here, a standard could be envisaged that provided for the settlement of individual labour disputes specifically related to FPRW, with further reflection needed on what type of instrument was most appropriate. Finally, consideration could also be given to creating standards that would aim to render mechanisms for the protection from discrimination more effective by providing for a reversal of the burden of proof. Direction would need to be given in the conclusions in terms of these standard-setting proposals, so that these could be placed on the agenda of the ILC in 2014. Noting the Employers’ group proposals regarding possible conclusions, he observed that the Employers’ suggestion related to needs analysis fed into the Workers’

proposal of a meeting of experts; this could include the informal economy, as well as new forms of work. Regarding public–private partnership, there was agreement that this presented resources and means for action. However, this should be done within a framework and there should be an assurance that this would not stray into policy setting, as often happened in the experience of the Workers. As the Secretary-General had noted in his speech to the Committee, there was sometimes an imbalance that came from donor preferences and this was an area that should be carefully monitored. In particular, freedom of association and the right to collective bargaining were not always donor priorities. On the inclusion of FPRW into DWCPs, one should keep in mind that FPRW were at the very heart of the ILO’s mandate and constituents needed be reminded of their obligations regarding the principles and rights in the context of technical cooperation. As regard the follow-up mechanism, he noted that an approach encompassing both the collection of information on realization of FPRW and promotion of ratification was desirable. Separating gave the wrong message as regards the ILO’s standard system which was at the core of the Organization’s existence.

- 140.** The Government member of France, speaking on behalf of IMEC group, emphasized the need for greater coherence among the four FPRW and between FPRW and the other ILO strategic objectives. This required streamlining and better coordination of responsibilities across departments to maximize the use and impact of limited resources and eliminate duplication of efforts. Integrating FPRW into DWCPs and other technical cooperation activities was a key means to promote their realization at the national level. The effective and efficient functioning of the ILO’s supervisory system was essential as was the provision of technical assistance to both ratifying and non-ratifying member States working to implement FPRW.
- 141.** The Government member of Zambia, speaking on behalf of the Africa group, proposed a number of measures to enhance the ILO’s promotion of FPRW, such as the development of integrated sector-specific FPRW programmes. This was a potentially effective approach to promotion in the informal economy, particularly for targeting the agriculture and mining sectors as well as other rural workers. Given the need for adequate resources, establishing agreed-upon ILO guidelines was one possible way to ensure that minimum levels of national budget resources were devoted to employment and labour programmes. This approach was used by other UN agencies with positive results. Similarly, the ILO needed an integrated resource mobilization strategy for all four categories of FPRW. In this respect, the ILO should discuss with donors ways to enhance the relevance, coherence and impact of technical cooperation programmes on FPRW. To ensure the greatest impact of action plans, a regular review was required to assess their effectiveness. The current evaluation reports and annual reviews were not an end in themselves but rather the basis for further action and funding to follow up on issues of concern. In particular, the ILO should facilitate a meeting of experts focusing on vulnerable workers and the implementation of FPRW in the informal economy, as also proposed by other Committee members.
- 142.** The Government member of Denmark, speaking on behalf of the EU Government members, reaffirmed the importance of a more coherent ILO approach between the four FPRW, which was essential for successful implementation. In particular, a framework of action was needed for integrating the principles in a cross-cutting manner within the Office. The ILO has been working for over a decade on gender equality, yet that principle was still not sufficiently mainstreamed into all ILO programmes, demonstrating the difficulty in carrying out cross-cutting work on FPRW. Linkages between the four categories of FPRW should be addressed institutionally and in future programmes and budgets. Combining the common aspects of existing action plans in a future framework for action was one way to use resources more effectively. Moreover, FPRW should be integrated into the activities of all DWCPs, even when not specifically mentioned in their

objectives. The involvement of the social partners was essential in contributing to the promotion of FPRW at all stages of technical cooperation and the framework for action should strengthen this involvement. She emphasized the importance of training and capacity building provided by the Office as essential tools for future ILO action. Special efforts were required for worldwide implementation and enforcement of FPRW particularly through technical cooperation, the supervisory system and a strong knowledge base.

- 143.** The Government member of Switzerland emphasized the link between social and economic development, which was a key aspect of Switzerland's engagement in technical cooperation. His country supported a number of ILO projects including SCORE and Better Work, the results of which were relevant to the Committee's discussion. In this respect, projects that work to implement FPRW at the enterprise level should be a priority of ILO technical cooperation. In collaboration with labour inspection systems and the social partners, these projects contributed to better awareness of FPRW in the workplace. They also contributed to building the capacity of labour inspection systems, trade unions and employer organizations. These programmes demonstrated the real impact of FPRW on the ground, including positive effects on productivity and enterprise competitiveness. Such projects provided real proof of the link between FPRW and economic development. He urged the Office to intensify its technical cooperation drawing on the model of SCORE and Better Work and to disseminate the results for the benefit of all constituents.
- 144.** The Government member of Norway noted that the impact of technical cooperation was improved when drawing on the synergies between the four categories of FPRW and between FPRW and ILO strategic objectives. In particular, she supported the proposal in the Office report that the promotion of FPRW be a mandatory component of each DWCP. Norway was one of the largest ILO donor countries and emphasized a rights-based approach in its cooperation activities. The ILO/Norway partnership agreement earmarked funding for work on FPRW and social dialogue through the strengthening of employers' and workers' organizations and labour administration. Greater joint work and convergence was needed in this field between ILO sectors, departments and field offices drawing on the work and recommendations of the supervisory bodies. She noted that the 2012 General Survey of the CEACR did not identify any gaps in the eight fundamental Conventions that required new ILO instruments. She highlighted that giving priority to FPRW was not only a political but also a budgetary priority and urged constituents and the Office to reflect the priorities and decisions of the Committee in the development of the Programme and Budget for 2013–14 and, in so doing, secure the necessary budget space to increase its efforts to reach the goal of universal ratification.
- 145.** The Government member of Indonesia expressed her country's commitment to FPRW and noted that national laws incorporated the principles of the fundamental Conventions. Ratification of these Conventions was essential but implementation was key to securing workers' rights. This required better understanding of the Conventions along with the involvement of employers' and workers' organizations. She acknowledged challenges in the implementation of Conventions Nos 87 and 98, due in part to differing understandings of these instruments. The labour inspection systems had an important role in enforcing FPRW, although improving understanding among social partners on these principles and rights was also crucial for implementation. Indonesia collaborated closely with the ILO to improve the application of FPRW including through initiatives to strengthen the labour inspection system through capacity building, as well as through the IPEC, SCORE and Better Work projects. She urged the ILO to take a holistic approach to promoting FPRW at the national level, taking into account the real needs of member States when setting priorities for action. She proposed that, for the next four years, the ILO should focus on assisting countries to overcome their limitations in implementing FPRW. To this end,

technical and financial assistance were vital to enable countries to achieve their social, economic and development objectives through the implementation of FPRW.

- 146.** The Government member of the United Arab Emirates, speaking on behalf of the Governments of the Gulf Cooperation Council (GCC) attending the Conference,¹⁰ and Yemen thanked the ILO for its assistance in improving rates of ratification of the fundamental Conventions in their countries, particularly Convention No. 98, and called upon all countries to ratify these Conventions towards achieving the objective of universal ratification. While ratification was not sufficient on its own to guarantee workers' rights, it was an important door to better working conditions and productivity. He noted efforts among the GCC countries to improve the working conditions of vulnerable workers, in particular migrant workers. This included an agreement with employers to respect the payment of wages and working hours established by law, as well as initiatives to improve dispute resolution mechanisms. He noted recent consultations held on the protection of migrant workers within the cooperation framework between sending and receiving countries. In 2012–16, the ILO should consolidate its capacity-building efforts for member States and the social partners to improve the implementation of FPRW. This required the design of clear and transparent indicators of progress, together with the social partners. These indicators should be complemented by the research and promotion of good practices to be shared with other member States. The GCC counted on ILO support for capacity building to improve implementation of FPRW in the GCC countries in order to achieve decent work in the workplace.
- 147.** The Government member of Canada supported the IMEC group's statement and added that the Conference should adopt a single action plan that would supersede the existing plans adopted under the follow-up to the 1998 Declaration. The relevant elements of the existing plans should be integrated into a new plan that addresses all FPRW, strengthens coherence and eliminates duplication of work. She found there to be a need to streamline and better coordinate responsibilities across ILO departments to increase synergies to maximize the use and impact of limited resources. Lessons should be drawn from successful technical cooperation projects that adopt an integrated approach to FPRW. It would be more realistic to adopt key elements of the action plan and mandate the Office to present a more detailed plan during the Governing Body for adoption. While universal ratification remained an objective, it was considered that resources should be focused on implementation through continued support to member States, particularly for those countries prepared to work towards the realization of FPRW but that lacked the capacity to do so. She mentioned that priority should be given to the effective implementation of FPRW through well-planned activities, careful allocation of resources for normative activity, technical cooperation and capacity building, supported by empirical research and analysis on the contributions of FPRW. She argued that the best way to attract resources was to demonstrate practical outcomes on the ground as a result of ILO interventions. Furthermore, the issues identified in the report did not need to be addressed through the development of new standards.
- 148.** The Government member of the United States supported the IMEC group's statement and expressed support for the development of a single, comprehensive plan of action that consolidates existing plans of action for each FPRW and reflects the conclusions of this Committee, in order to take advantage of synergies and maximize the effectiveness of the ILO's work. Technical cooperation is a critical component of the ILO's efforts to promote FPRW, a key tool for advancing the application of Conventions. Experience shows that it can, improve the situation of workers and lead from identifying gaps in implementation to recognized progress in closing these gaps. FPRW should be taken into account to achieve

¹⁰ Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and United Arab Emirates.

all four of the ILO's strategic objectives, for example, by including FPRW in some ILO activities aimed at employment creation or the development of social protection schemes. This requires coherence, communication and cooperation within the Office. Improved data gathering, including providing technical assistance to States to build their statistical capacity, as well as peer-reviewed policy-orientated research aimed at gaining an understanding of the economic and social impacts of the realization of FPRW should be priorities. The eight fundamental Conventions continued to be relevant and able to respond to any circumstance. Therefore, no new standard setting on FPRW was necessary or desirable. The ILO's limited resources should be used to ensure the effective and efficient functioning of the ILO's supervisory bodies and their secretariat and to provide technical cooperation to both ratifying and non-ratifying States working to implement FPRW.

- 149.** The Government member of Japan supported the IMEC group's statement and added that many informal workers did not benefit from FPRW. Hence efforts promoting the formalization of the economy in order to realize FPRW were essential. Japan had supported a project to support the formalization of the economy in South Asia through the ILO/Japan multi-bilateral programme with the involvement of social partners. The project was aimed at raising awareness and the capacity building of employers' and workers' organizations through workshops and training programmes. The involvement of social partners and training should be prioritized in technical cooperation for the realization of FPRW.
- 150.** The Government member of Kenya, aligning his country's position with the Africa group statement, considered that FPRW should be dealt with in a holistic manner and that resources should be allocated to where there were major gaps in implementation. The four categories of FPRW, as well as the other strategic objectives of the ILO should, to the extent possible, be addressed together. A cost benefit analysis should be carried out to identify the most cost-effective strategy. The idea for the ILO to develop an integrated diagnostic toolkit in consultation with the social partners and governments was proposed to monitor and evaluate the implementation of FPRW and to support capacity building and knowledge base.
- 151.** The Government member of Argentina recognized that the principal means of action provided by the 2008 Social Justice Declaration for the realization of FPRW were technical cooperation, capacity building, implementation of effective monitoring and evaluation mechanisms and the mobilization of resources for the implementation of national policies. He mentioned the importance of consolidating legislation and ratifying Conventions that establish FPRW to ensure fundamental guarantees for workers. The importance of social dialogue was considered as a necessary tool towards the implementation of FPRW. Noting the difficulties of coordination with other agencies, he stressed that work with the World Bank and the IMF was encouraged. Greater coherence could result in the inclusion of FPRW in wider policies of other international agencies.
- 152.** The Government member of China mentioned in relation to Chapter 3 of Report VI that collective bargaining should be actively promoted and a priority for harmonizing industrial relations. China was grateful for having benefited from ILO cooperation on promoting collective bargaining, which remained a priority for the years to come. The ILO should take into account the different country situations – diverse historical, cultural, legal, judicial and governance environments – and adapt approaches to FPRW to ensure their universal realization. Sharing best practices for the realization of FPRW was a valuable approach.
- 153.** The Government member of Mexico acknowledged that the importance of ILO Conventions had been stated by all Governments. The objective of the ILO in standard setting required that the fundamental Conventions be in force and, therefore, technical

cooperation, capacity building and strengthening the understanding of the fundamental principles were to be emphasized as priorities. His delegation agreed with the proposal made by the United States for the creation of a single plan of action in order to avoid duplication.

- 154.** The Government member of Brazil stressed that technical cooperation, capacity building and research were important ILO priorities. In connection with FPRW, an approach fully integrating the different categories of principles and the strategic objectives of the ILO was needed. They had many points in common and all carried the need for prevention, implementation of rights and penalties for those who violated those rights. The ILO was not centralized in one programme and, therefore, it was important to have a strategic and integrated approach with a single plan that covered the four cross-cutting topics. A single plan also minimized cost and was more effective in terms of coordination.
- 155.** The Worker Vice-Chairperson noted that many Governments emphasized the need to strengthen the Office's means regarding efficiency and effectiveness to implement FPRW. He underlined progress made and called for the ILO to give itself objectives and ensure that measures would be taken to achieve them. When calling for strengthened coordination, technical cooperation, increased effectiveness, organization of synergies, definition of programmes, etc., it was important to consider the technical details. It was imperative that the high number of people involved in forced labour, the decline in collective bargaining and rates of unionization be taken seriously. In view of the economic crisis, discrimination had continued and worsened. Other trends, such as the slower progress in eliminating child labour and the need to strengthen labour inspections, were affected by austerity measures and budget restrictions. It was essential that the conclusions not only reconfirmed the attachment to FPRW but that the plan of action was rapidly matched with funding, action and follow-up to monitor progress. He reiterated two priority areas: achieving universal ratification and setting new standards that could enhance the implementation of FPRW, particularly to increase effectiveness in the fight against forced labour and for supporting the creation of effective systems of resolution of individual labour disputes. In fact, a range of other standards supported the implementation of FPRW, in addition to the eight fundamental Conventions, among them the Labour Relations (Public Service) Convention, 1978 (No. 151), the Collective Bargaining Convention, 1981 (No. 154), and the Workers' Representatives Convention, 1971 (No. 135), or the Conventions regarding termination of employment, employment policy, and migrant workers.
- 156.** The Employer Vice-Chairperson noted that many governments were in favour of a single plan of action. It was essential that more synergies were explored. It was also important to remember that the purpose of the 1998 Declaration was not to promote ratification, but rather to articulate the obligation of ILO member States to respect FPRW irrespective of ratification. Hence, care was needed in drafting the conclusions to avoid "amending" the 1998 Declaration.

Point 5: Other initiatives to promote FPRW

- 157.** The Employer Vice-Chairperson focused on three areas of partnership and collaboration – with the UN system and other multilateral agencies like the World Bank and the IMF; the relationship between FPRW and trade; and the promotion of FPRW through CSR and IFAs between enterprises and their trade unions. On the issue of collaboration with other UN agencies, he noted the increasing collaboration in recent years. Report VI gave an impressive overview of the way ILO priorities and FPRW had been integrated and taken into account in the work of, for example, ECOSOC, the 2010 UN Summit on Millennium Development Goals and the International Finance Corporation. The Better Work

programme provided an impressive example of cooperation between the ILO and the IFC, which had direct impact in workplaces. FPRW were one of the main priorities of the French G20 presidency. He commended the Office's achievements in integrating FPRW in the work of other UN agencies and, although there was room for improvement, the ILO was generally on the right path. The Employers' group agreed that policy coherence was important and that social, economic, environmental and financial policies had an impact on each other. The importance of jobs for the realization of FPRW was stressed. Professor Benjamin Friedman's research on the moral consequences of economic growth demonstrated that such growth provided greater opportunity, tolerance of diversity, social mobility, commitment to fairness, and dedication to democracy. As growth went hand-in-hand with FPRW, the interactions with other UN entities needed to be included in policy-making for outcomes such as job creation, sustainable enterprise development and restoration of investor and consumer confidence. The challenge was the variety of interpretations of policy coherence. From the Employers' perspective, policy coherence was only possible through solid partnerships where there were synergies, common goals and respect for each partner's mandate rather than dilution of core values in order to achieve uniformity of policy. Policy coherence was not a one-way street whereby all other UN agencies and Bretton Woods institutions had to follow the ILO's line. The idea of carrying out social impact assessments of national programmes of the IMF or the World Bank also meant that there was a risk that they might do economic impact assessments of ILO policies, individual labour standards, and DWCPs; and this was not wanted by neither the ILO nor its constituents.

- 158.** With respect to the CSR and trade issue, the Employers' group did not agree that it was relevant to the task. With the tripartite MNE Declaration, the ILO already had an important instrument on social responsible behaviour of multinational enterprises, for which new follow-up activities had been adopted by the Governing Body in March 2012. That, along with the support services provided by the ILO Helpdesk, demonstrated that the ILO was on track with regard to the MNE Declaration. The Employers' group considered that FPRW were a very important topic and focus had to remain on promoting their implementation at the national level, through governments in consultation with the social partners, supported by the ILO. It was essential that only activities with clear value added and impact on the full realization of FPRW were pursued. He clarified that the desired result was a revitalization of the spirit and energy of the 1998 Declaration in which there was one strong message with few key priorities. It was vital that a long list of possible activities be avoided, as that only would dilute the message and impact, risking diversion into side issues and shopping lists.
- 159.** The Worker Vice-Chairperson noted that there had been some progress in the positioning and visibility of the ILO with regard to the role of decent work and FPRW in the governance of globalization and multilateral organizations. That put the ILO on the same platform as the G20 and gave impetus for political aims specified in the G20 Cannes Summit that could be channelled into political action. The crisis acted as a warning to governments and business that corporate greed had threatened to cause economic collapse. When things went badly, stakeholders who had previously denounced public intervention and budget deficits were quick to call for government financial assistance. This brought recognition of the relevancy of the ILO's work and mandate. He disagreed with the Employers' concern that, if the ILO took a more proactive role in terms of workers' rights and social consequences, it would risk being subjected to economic assessment of the consequences of social standards: in fact, such analyses were already happening. In terms of the broader implementation of the fundamental and social principles, the Office was confronted with a significant reversal in terms of policy implementation, as the structural adjustment programmes being applied by some European countries receiving IMF loans involved reforms to the labour market and to social programmes, hitting public sector pay, unemployment benefits and collective bargaining, while encouraging recourse to

temporary and fixed-term contracts. In response to the Employers' group proposal to use job creation to stimulate economic growth, he stated that such an approach was associated with austerity measures that weakened collective bargaining and the ability of trade unions and social partners to ensure the application of FPRW. Such policies did not contribute to economic growth favouring FPRW, but instead undermined freedom of association and collective bargaining. Therefore, further discussions with the Employers' group on its analysis of economic growth and fundamental principles were required, as the Workers' group preferred a more proactive approach. In terms of proposals for ILO action in multilateral systems, it was important to link ILO instruments on tripartite consultation, with widening national tripartite discussions on FPRW policies related to UN entities and multilateral agencies.

- 160.** Analysis, research, knowledge exchange and discussion at national and regional level about bilateral free trade agreements that referred to FPRW could have an impact at the international level. The ILO could have more visibility and impact where such agreements provided opportunities for technical assistance at the national level and for follow-up through ILO supervisory mechanisms. The OECD *Guidelines for Multinational Enterprises* were useful, and the ILO should use the OECD model to carry out assessment analysis and encourage effective implementation of procedures. National contact points could be used along the same lines as the OECD guidelines, to involve the social partners and governments. The ILO should develop a tripartite mechanism to ensure that those contact points worked effectively and took FPRW into consideration, using the regional offices, where necessary, and providing assistance and cooperation. The MNE Declaration had recently been revised and strengthened in its follow-up by the Governing Body, and referred to Convention No. 144. In addition, when UNDAFs and IFAs between global enterprises and unions referred to FPRW, the ILO should be more proactive in providing technical assistance and analysis, based on the Office's own databases, and implementing monitoring and control systems.
- 161.** The Government member of China, speaking on behalf of ASPAG, stated that the targets, implementation processes and expected results of ILO engagement with other international initiatives promoting FPRW should be clearly defined. The mandates of individual organizations should be respected, overlap avoided, and national needs and circumstances understood and addressed. The ILO should reinforce its position as the sole international authority responsible for defining, interpreting and implementing labour standards, including FPRW.
- 162.** The Government member of France, speaking on behalf of the IMEC group, believed that the ILO should use all the means at its disposal, including engagement with external multilateral partners, to mainstream FPRW into social, economic and development policies. In 2011, G20 leaders at Cannes had encouraged the ILO to continue promoting the implementation and ratification of the eight core Conventions. They also called on international organizations, in particular, the UN, the WTO, the ILO, the World Bank, the IMF, and the OECD to enhance dialogue and cooperation, particularly on the impact of social and economic policies. Active engagement by the ILO in that process would enable it to leverage the resources of other multilateral agencies, and help it reinforce universal acceptance of FPRW in policies to restore global growth and confidence in the wake of the economic crisis. The forced labour estimates released by the Office to the Committee were of great concern, and the ILO should continue to work in that area and engage in further collaboration with the United Nations Office on Drugs and Crime and other organizations to combat all forms of forced labour. In light of the proliferation of international free trade agreements, the ILO should continue research and analysis on their impact on the realization of FPRW. The MNE Declaration was useful in engaging with the private sector and increasing CSR towards the implementation of FPRW. The ILO could also play a useful role in advising actors on CSR initiatives.

163. The Government member of Zambia, speaking on behalf of the Africa Group, considered that the ILO should be systematically involved in other initiatives to promote FPRW despite limited resources. Coordination and effective synergies were needed to avoid the duplication of efforts and the misuse of resources and the group looked forward to the discussion on policy coherence in the multilateral system in the Governing Body. Partnerships with regional and subregional institutions in Africa, such as the Labour and Social Affairs Commission of the African Union, SADC, ECOWAS, EAC, ECCAS, and the MAU, should be strengthened. The ILO should work to maintain and further its influence in the United Nations and other organizations in terms of fundamental principles and rights, while keeping its autonomy. It was of great importance that the ILO ensured that the global financial institutions took FPRW into consideration in their mandates, and the Office was urged to carry out further research to assess the impact of labour provisions in trade agreements towards promoting FPRW.

164. The Government member of Denmark, speaking on behalf of the EU Government members, pointed to the growing importance of the promotion of FPRW in the work of other multilateral organizations, trade agreements and private voluntary initiatives, as these were sources of great potential for FPRW that should be better exploited. In view of the growing importance of promoting external contributions to FPRW, the renewed process of coordination between the ILO and other multilateral actors offered new opportunities to promote FPRW. She agreed with the importance given in the Office's report to the role of trade agreements in the promotion of FPRW. The rapid growth of international trade was one of the main drivers of globalization, and had a major impact on the lives of people everywhere. The increasing inclusion of social provisions in trade agreements reflected the need to ensure that liberalization of markets happened in a balanced way and that trade contributed to promoting decent work and sustainable development in all its dimensions. Accordingly, the EU systematically included social chapters in its trade agreements and had created an incentive system – through its General System of Preferences – for ratification and implementation of human rights Conventions, including the ILO core Conventions. She considered particularly useful the research and knowledge base on labour provisions in trade agreements developed by the ILO, as well as the studies exploring the links between trade and gender equality and social protection. The ILO should further develop expertise and advice in the area of trade-related promotion of FPRW, since better understanding of such interrelations was crucial for shaping effective trade instruments. She agreed with the point made by the Office in relation to the diversity of private voluntary initiatives and the different view social actors could have on the impact of CSR on the promotion of FPRW. She shared the report's assessment on the development of additional instruments and recognized the important role played by the MNE Declaration in expressing the expectations of the international community with regard to the behaviour of multinationals, along with the OECD *Guidelines for Multinational Enterprises*. The implementation of the MNE Declaration was important to ensure respect of FPRW in multinational enterprises and in the supply chains. The advice given to individual companies involved in CSR initiatives through the ILO Helpdesk for Business on International Labour Standards, the implementation of the Better Work programme and the collaboration with the Global Compact had been particularly relevant to ILO's action in the support to CSR initiatives. She would welcome the reinforcement of the Better Work programme, as well as further development of training, capacity building and research activities. She shared the report's assessment on the growing importance of the role of emerging transnational industrial relations and social dialogue in the promotion of FPRW. The social partners played a decisive role in global business and economies: over 10 million employees worked in companies that had concluded IFAs or other transnational company agreements with workers' representatives. The knowledge base of the ILO on these instruments should be broadened to address challenges that persisted in their adoption and implementation. The Office should explore the role and impact of such transnational agreements at company level for the promotion of FPRW in its report for the

recurrent discussion at the ILC in 2016. The ILO should be the focal point for interpretation of FPRW, and the interpretation of FPRW in other initiatives should be coherent with this. The ILO Helpdesk could be strengthened for that effect.

- 165.** The Government member of India, speaking on behalf of China, India and Pakistan, welcomed coordinated action among international organizations for the promotion of FPRW provided that it would not lead to imposition of conditionalities, linkage of trade with labour standards, and overlap of work among various UN organizations. He considered that the 2008 Social Justice Declaration clearly stipulated that trade and labour standards should not be linked. The ILO had the sole mandate for developing and implementing labour standards and there should be no encroachment of other agencies in this area. The promotion of private voluntary initiatives and CSR standards should not be encouraged as they did not result from a tripartite and transparent process. He also considered that, as outlined in Convention No. 81, labour inspection should remain the responsibility of national governments and such function could not be taken over by other agencies and accreditation bodies.
- 166.** The Government member of New Zealand supported further discussion between the ILO, the UN system and multilateral organizations on alignment of FPRW with the work of those agencies. However, appropriate divisions of responsibility and accountability should be maintained. The ILO should work within its comparative advantage (technical excellence in labour issues, standard setting and tripartism) to best promote the Decent Work Agenda and FPRW, as stated by ASPAG, while ensuring its work was complementary. The 2008 Social Justice Declaration emphasized the links between trade, fundamental labour standards and decent work, and New Zealand's own trade policy reflected this. Tradable goods and services were a product of labour, and the labour element should be recognized in the trade relationship: ILO Members had the responsibility to promote and observe FPRW not only at the national level but between trading states. Consumers – who were also workers or employers – were interested in the conditions under which the goods and services they purchased or produced were made and traded. His country incorporated three elements in its trade and labour instruments: mutual respect for and commitment to the fundamental principles and rights at work coupled with acknowledgement of the right to national regulation; that labour standards should not be used as trade barriers or derogated from to secure unfair trade advantage, and the use of cooperative arrangements to support those undertakings. While recognizing the ILO's role and status in setting and monitoring labour standards, he echoed the concerns of the Employer Vice-Chairperson with regard to the proposal that the ILO adopt an auditing role in trade agreements. His Government was open to proposals that would encourage greater dialogue and information exchange. Further research was required on the impact of labour provisions in trade agreements, particularly in respect of the development of transnational labour advocacy networks or the building of a culture of compliance through labour cooperation. At the national level, the promotion of tripartite mechanisms was useful but this should not detract from the role and accountability of governments.
- 167.** The Government member of Switzerland stated that references to FPRW or even to the eight Conventions were increasingly being included by countries in their trade agreements, as well as in private voluntary initiatives. It was thus essential to discuss the role of the ILO in such enterprises. Regarding trade agreements, the ILO's role should be focused on research and knowledge gathering, since it was primarily up to member States to use such clauses in ways that avoided conflict with the mandate and objectives of the ILO. Regarding private voluntary initiatives and CSR, the ILO should continue to strengthen its information and advisory services based on the MNE Declaration, which should be updated or at least adapted to recent changes for such initiatives. He underlined that direct involvement of private enterprise and public–private partnerships was essential for the success of long-term projects within the tripartite framework of SCORE and Better Work

programmes. He urged the ILO to deepen its relations with private enterprise and to use public-private partnerships more systematically in technical cooperation. This would contribute to ensuring the central role of the ILO in effectively implementing FPRW and would avoid the “privatization” of such principles and rights and their interpretation. He concurred with the statements of other delegations in calling on the ILO to reinforce its cooperation with other multilateral organizations, such as the World Bank, the IMF, the WTO and the OECD, as suggested in the 2008 Social Justice Declaration.

- 168.** The Government member of the Republic of Korea acknowledged the expanded ILO involvement in multilateral talks, such as with the UN and the G20, as well as in trade agreements. If the ILO continued to be involved in such activities, a more systematic approach would need to be considered, while keeping in mind the resources’ limitations. A more regular cooperation mechanism between the ILO and the OECD could be developed to work on research themes reflecting the demand of member States. He considered that support for CSR initiatives of multinational enterprises should be expanded, and their effectiveness improved by strengthening direct support to enterprises, as well as by using the MNE Declaration and the UN Global Compact. He stressed that FTAs were concluded by governments; the ILO might provide advice on labour provisions upon request but should maintain a proper distance so as not to interfere in bilateral trade relations. It would be useful to conduct a study on the effect of labour provisions in FTAs on trade.
- 169.** The Government member of Brazil viewed positively the references in the Social Justice Declaration on strengthening the ILO’s strategic alliances and support to Members’ efforts to promote the four strategic objectives within the framework of bilateral or multilateral agreements. However, her Government had reservations concerning the addition of labour clauses in such agreements. Brazil had integrated FPRW into its public tenders. For instance, the names of companies found guilty of forced labour were published on a black list that could be consulted by financial organizations when considering loans. She doubted that such measures could be taken at the international level and recommended instead that the ILO concentrated efforts on strengthening policy coherence with the multilateral system with regard to FPRW. However, the ILO should, when requested, assist in resolving disputes as mentioned in paragraph 287 of Report VI. As for CSR, her Government understood this did not exempt companies from compliance with national legislation or with labour inspection; on the contrary, it played an important role in prevention and in achieving FPRW.
- 170.** The Government member of Norway supported the IMEC group’s statement. Her Government encouraged the ILO’s cooperation with the multilateral system, in particular the Bretton Woods institutions, the G20 and the WTO. Norway promoted FPRW and decent work through bilateral agreements. Drawing on this experience, the Government member noted that while there was no consensus on the link between trade liberalization and labour standards, the issue was clearly on the agenda and there was international and national pressure to find solutions. In this respect, FTAs offered an alternative way to promote FPRW. The European Free Trade Association (EFTA) had since 2010 established a dedicated chapter in its trade agreements on trade and sustainable development, clarifying the linkages between labour and trade. The chapter referred to the eight fundamental Conventions and called for their ratification and effective implementation. The chapter was not subject to arbitration, no harmonization of standards was foreseen and interpretation of the Conventions remained fully in the domain of the ILO. The chapter also stated that labour standards should not be used for protectionist purposes, but also that the violation of FPRW could not be used as a legitimate comparative advantage, echoing the Social Justice Declaration. While it was too early to draw definite conclusions on the practical operation and impact of such initiatives, the Office was thanked for its research and was encouraged to continue its work in this field. Private voluntary initiatives were supported in Norway, with the expectation that they be in accordance with human rights,

including the eight fundamental Conventions and with occupational safety and health standards, and with a clear follow-up mechanism. In the same vein, the ILO should ensure that CSR measures were always based on FPRW.

- 171.** The Government member of Japan recognized the consensus within the Committee on the value of FPRW. However, trade agreements were concluded through negotiations between governments and it was the role of the parties to shape their content. The Committee's conclusions therefore should refrain from providing guidance on uniformly including specific elements in such agreements, as this would limit the parties' discretion in the negotiations.
- 172.** The Government member of France supported the EU and IMEC group's statements. In support of the proposal made by the Workers' group for national coherence via regular meetings of the social partners, he shared his country's experience. In the context of the G20, meetings of experts and political meetings had been arranged which had included the social partners along with representatives of various ministries, including employment, finance, foreign affairs and development. The experience had been positive, as it resulted in a better understanding of the others' constraints and points of view, and of potential synergies.
- 173.** The Government member of Chile endorsed the intervention by Brazil. There was both an ethical and an economic face to the question. In Chile, public procurement contracts could not be concluded with suppliers that had been condemned for violation of FPRW in the previous two years. Non-compliance with FPRW resulted in having one's licence withdrawn, and any company found violating trade union rights had its name published on a black list.
- 174.** The Worker Vice-Chairperson noted that the present discussion had shown the high political importance of the issues at stake. It was a good illustration of effective tripartite social dialogue. The debate was indeed a good basis for working towards conclusions that would carry a strong message to the outside world on the ILO's legitimacy, firmly grounded in tripartism, and its mandate to set international labour standards and ensure that they are respected and enforced. To this end, it was necessary to address issues of effectiveness and funding. Furthermore, he clarified that the Workers' group was not seeking a conclusion from the Committee that addressed the role of social clauses in trade agreements for the promotion and implementation of FPRW. It was nonetheless important that any eventual discussion or action taken in this regard be grounded in tripartite social dialogue, which was only truly genuine in conditions of freedom of association and the right to collective bargaining. Social dialogue at the national level had the potential to introduce FPRW into other key national policies. Ministries of finance, trade and foreign affairs, however, were often unaware of the ILO Constitution and FPRW. He urged governments to work to improve awareness among government counterparts at the national level on FPRW, which could improve policy coherence at the national level as well as within the multilateral system. It was important for the Committee's conclusions to address the need to strengthen the ILO's knowledge base on FPRW, in addition to the role of multinational enterprises in promoting the effective implementation of FPRW.
- 175.** The Employer Vice-Chairperson observed with satisfaction the high quality of the debate on the fifth point of discussion, particularly compared to the discussion on these issues that took place in adopting the 1998 Declaration. He agreed with the Workers' group that there was no question about reducing respect for FPRW in response to the economic crisis and recalled that workers' rights were well-established human rights. Nevertheless, the reference in the 1998 Declaration to the "effective recognition of the right to collective bargaining" allowed for various approaches. Tripartite social dialogue was unquestionably a fundamental ILO value, but he pointed out that national social dialogue functioned

differently from country to country, depending in part on whether a country had ratified Convention No. 144. The role of social dialogue in promoting the implementation of FPRW depended to a large extent therefore on the circumstances of social dialogue within each country. With regard to trade and FPRW, he recalled that, unlike this year, discussions on paragraph 5 of the 1998 Declaration largely consumed the debate leading to that Declaration's adoption. The present discussion was at a higher level, which was evidence that the world was moving forward on this topic. However, if the discussion had been about changing the terms of paragraph 5, there would have been stiff debate. Recalling the workers' suggestion that the follow-up to the MNE Declaration should involve a remedial, as opposed to promotional approach, he cautioned that this matter was difficult to consider by the present Committee given that the Governing Body was currently discussing related issues. The Workers' group suggestion that the ILO should have a role in ensuring that FPRW are reflected in IFAs was somewhat surprising; the parties to such agreements were unlikely to require ILO assistance on FPRW.

176. The Government member of Canada asked the Chairperson to communicate the Committee's disappointment to the Officers of the Conference Committee on the Application of Standards for about their being unable to present, as scheduled, the results of their deliberations to this Committee.

177. The Chairperson agreed to convey this sentiment to the Officers of the Committee on the Application of Standards. Nonetheless, he recalled that a written summary of discussions in that Committee on the General Survey had been transmitted to this Committee.

Discussion of the draft conclusions

178. The Chairperson introduced the proposed conclusions that had emerged from the work of the Drafting Group and thanked its members for their diligent and thorough work.

179. The Employer and Worker Vice-Chairpersons appreciated the precise and frank discussions that had taken place in the Drafting Group and were confident that the Committee would work constructively towards a successful outcome.

180. The Government member of China, speaking on behalf of ASPAG, congratulated the Drafting Group on its work. Despite some differences, he expressed ASPAG's readiness to engage in discussions to achieve a consensus.

Point 1

181. The Government member of Trinidad and Tobago introduced an amendment, seconded by the Government member of Jamaica, to replace the first word in point 1 "That" with the word "The". The Employer Vice-Chairperson and the Worker Vice-Chairperson stated that they were prepared to accept the amendment, and the amendment was adopted.

182. Point 1 was adopted as amended.

Point 2

183. The Employer Vice-Chairperson introduced an amendment to replace, in the first sentence of point 2, the words "at the same time as" with "shortly before". The amendment's sole purpose was to position accurately the timing of the 2008 ILO Social Justice Declaration

with the economic crisis. The Worker Vice-Chairperson agreed with the amendment. There was no objection by the governments and the amendment was adopted.

- 184.** The Government member of Trinidad and Tobago introduced an amendment seconded by the Government member of Jamaica, to replace the words “broke and” with the words “occurred which” in point 2 to ensure that the wording stated the facts. The Employer Vice-Chairperson considered the amendment unnecessary and did not support it. The Worker Vice-Chairperson also preferred to keep the original text and the Government member of Trinidad and Tobago withdrew the amendment.
- 185.** The Government member of France, speaking on behalf of some Government members of the IMEC group,¹¹ introduced an amendment to add at the beginning of the last sentence of point 2 the words “At this time in 2012, when global economic growth continues to be threatened by financial and economic instability”, and replace the term “member States” with the word “constituents”. The first part of the amendment aimed to ensure developments were referred to in a proper sequence, while the purpose of the second part was to clarify that member States were represented by the three constituent groups. The Employer Vice-Chairperson and the Worker Vice-Chairperson both supported the first part of the amendment, but not the second part, which they considered redundant. This was acceptable to proponents and the amendment was adopted as subamended. As a consequence, one amendment fell.
- 186.** The Worker Vice-Chairperson introduced an amendment to point 2 to replace the word “goal” by the words “means towards development and social justice”. The purpose was designed to qualify the achievable goal. Following an exchange of views, he proposed a subamendment to maintain the word “goal” and add at the end of the point the words “to advance development and social justice”. The Employer Vice-Chairperson supported the proposal and there was no objection by the governments. The amendment was adopted, as subamended.
- 187.** The Worker Vice-Chairperson introduced an amendment to move the last sentence in point 2, as amended, into a new paragraph to follow, given that this would further strengthen the proper sequencing of the messages contained in the introductory part of the draft conclusions. The Employers’ group and the governments agreed and the amendment was adopted.
- 188.** Point 2 was adopted, as amended.

New point after point 2

- 189.** The Worker Vice-Chairperson introduced an amendment, adding after point 2 the following new point: “In response to the crisis and to its social consequences, by adopting the Global Jobs Pact, the ILO focused on the promotion of core labour standards and in particular the need to increase respect for freedom of association, the right to organize and the effective recognition of the right to collective bargaining as enabling mechanisms to productive social dialogue in times of increased social tension, in both the formal and informal economies.” The purpose of the amendment was to refer to the adoption of the

¹¹ Australia, Austria, Belgium, Canada, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Republic of Korea, Luxembourg, Malta, New Zealand, Norway, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Sweden, Switzerland, Turkey and United States.

Global Jobs Pact, which, in the context of the economic crisis, highlighted the importance of the ILO's core labour standards and the need for constructive social dialogue.

- 190.** The Employer Vice-Chairperson agreed to add a point related to the Global Jobs Pact, but suggest the following alternative wording: "In response to the crisis and to its social consequences, by adopting the Global Jobs Pact, the 2009 International Labour Conference stressed the importance of the promotion of the fundamental principles and rights at work in times of increased social tension." This would accomplish the Workers' proposal, but brought in all elements of the 1998 Declaration.
- 191.** The Workers' group wished to maintain in the text references to both the formal and informal economies and the importance of creating constructive social dialogue, based on respect for freedom of association and the right to collective bargaining. The Employers' group did not agree to references to the formal and informal economies and moved a subamendment to replace the amendment under discussion with the following: "In response to the crisis and to its social consequences, by adopting the Global Jobs Pact, the 2009 International Labour Conference stressed, among other things, the importance of the promotion of the fundamental principles and rights at work and constructive social dialogue in times of increased social tension." The Committee accepted the subamendment and the amendment was adopted, as subamended.
- 192.** The new point was adopted, and subsequent points would be renumbered accordingly.

Point 3

- 193.** The Committee discussed two identical amendments to delete the word "human" before the word "rights" in point 3(b), submitted by Government members of a number of like-minded countries¹² and some Government members of the IMEC group,¹³ respectively.
- 194.** The Government member of Pakistan, speaking on behalf of the Government members of the abovementioned like-minded countries, explained that the purpose of the amendment was to ensure consistent terminology throughout the text and to avoid confusion with the rights contained in UN instruments.
- 195.** The Employer Vice-Chairperson pointed out that the text in point 3(b) established a link between human rights and fundamental rights on the rationale that FPRW were human rights and should be considered on the same basis. The Workers' group agreed with the Employers, since the fundamental principles and rights adopted in 1998 were regarded as human rights, and were universal and binding on member States.

¹² Afghanistan, Bahrain, Bangladesh, Brunei Darussalam, Cambodia, China, Fiji, India, Indonesia, Islamic Republic of Iran, Iraq, Jordan, Kiribati, Republic of Korea, Kuwait, Lao People's Democratic Republic, Lebanon, Malaysia, Republic of Maldives, Mongolia, Myanmar, Nepal, Oman, Pakistan, Papua New Guinea, Philippines, Qatar, Saudi Arabia, Singapore, Solomon Islands, Sri Lanka, Syrian Arab Republic, Thailand, Timor-Leste, United Arab Emirates, Viet Nam and Yemen.

¹³ Australia, Austria, Belgium, Canada, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Republic of Korea, Luxembourg, Malta, New Zealand, Norway, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Sweden, Switzerland, Turkey and United States.

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- 196.** The Government member of France, speaking on behalf of the Government members of the IMEC countries proposing the amendment, indicated that the purpose of it was to ensure legal certainty and to avoid any ambiguity as to the nature of the rights in question. He asked the Legal Adviser to clarify the relationship between the various notions used in the text. The Government member of India supported the statement made by the Government member of France, suggesting that a text featuring the term “fundamental” before the term “human rights” might indeed create confusion.
- 197.** The Chairperson suggested that one possibility might be to add in point 3(b) the word “and” between “fundamental” and “human rights”.
- 198.** The Employer Vice-Chairperson understood the concern expressed by the Government members of France and India and proposed a subamendment to replace in point 3(b) the expression “fundamental human rights and enabling conditions” with “human rights and enabling conditions”, thus deleting the word “fundamental” in the text discussed. The Worker Vice-Chairperson supported the subamendment, preferring it over the Chairperson’s suggestion.
- 199.** In reply to a question from the Government member of France regarding the relationship between fundamental principles and rights at work and human rights, the Legal Adviser explained that the four categories of FPRW as defined in the 1998 Declaration had been expressed in the ILO’s eight fundamental Conventions. In addition, they were also the subject of rights recognized in the Universal Declaration of Human Rights and a number of human rights treaties of the United Nations, such as the International Covenant on Economic, Social and Cultural Rights. FPRW were therefore recognized as human rights. In the Universal Declaration, the adjective “fundamental” was used to qualify the term “freedoms”.
- 200.** The Government members of the United States and India sought additional clarifications from the Legal Adviser on whether all four categories of fundamental principles and rights at work were covered by United Nations human rights instruments. In response, the Legal Adviser indicated, without being comprehensive, that the right to non-discrimination was covered in Article 2 of the Universal Declaration on Human Rights, of which the elimination of discrimination at work was a specific articulation. The rights of protection against forced labour and child labour were included, for example, in Articles 3 and 4 of the Universal Declaration and freedom of association and the right to collective bargaining were related to Article 23, in particular, paragraph 4, of the Universal Declaration and to relevant provisions further elaborated in the International Covenant on Economic, Social and Cultural Rights. The Covenant’s provisions had been further interpreted by the United Nations Committee on Economic, Social and Cultural Rights in that regard. Paragraph 3 of Article 8 of the Covenant expressly ensured that the rights recognized in ILO Convention No. 87 would not be prejudiced by States’ commitments taken under the Covenant. The two legal systems of rights, that of the ILO and that of the UN, were designed to operate in coordination, so that States pursue commitments under both ILO Conventions and UN human rights instruments without doing harm to either set of obligations.
- 201.** The Government member of France, speaking on behalf of the Government members of the IMEC countries which submitted the amendment, thanked the Legal Adviser for her helpful explanations and indicated that including the word “and” after “fundamental” in the first line might be a solution. In view of their importance, he suggested that the explanations be made available in a separate document.
- 202.** The Government member of Pakistan was of the view that human rights were treated individually in the Universal Declaration, whereas the notion of FPRW addressed all four categories as a whole. Another difference was that UN instruments allowed for limitations

or derogations to some of those rights, for which he asked the Legal Adviser to provide additional clarifications.

- 203.** The Chairperson invited the Legal Adviser to inform the Committee which of the discussed options for terminology would be preferable from a legal point of view.
- 204.** The Legal Adviser, in reply to the question by the Government member of Pakistan regarding the provisions contained in UN human rights treaties allowing for limitations and derogations, stated that a different approach had been taken in ILO Conventions which did not include limitation or derogation clauses akin to those in UN instruments. Instead, ILO Conventions used so-called flexibility measures that provided for possibilities for Members to adjust the scope of application of an instrument in specific ways. These measures were explicitly found in the text of the instrument. As to the choice of legally accurate terminology for point 3(b), she noted that, based on the fact that fundamental principles and rights at work were also human rights, using the expression “human rights” or even “fundamental and human rights” would be consistent with the legal explanations she had given. Reference to “fundamental rights” could be appropriate if it clearly referred to the rights already included in the expression fundamental principles and rights at work. However, it was preferable to avoid expressions with no recognized legal meaning, such as “fundamental human rights”.
- 205.** The Government member of Pakistan, speaking on behalf of the Government members of the like-minded countries that had submitted the amendment, bearing in mind the explanations given by the Legal Adviser, supported the subamendment to delete the word “fundamental”. Also expressing support in this regard, the Government member of Bangladesh stated that the word “fundamental” needed context, namely “fundamental rights at work”, which was already clear from clause (a) of point 3.
- 206.** On that basis, the amendment to point 3(b) was adopted, as subamended.
- 207.** The Worker Vice-Chairperson stated that the French version of point 3(b) should refer to “droits de l’homme” rather than “droits de la personne”.
- 208.** Three amendments in relation to point 3(b) fell and one amendment regarding point 3(c) was withdrawn.
- 209.** Point 3 was adopted, as amended.

Point 4

- 210.** The Government member of Trinidad and Tobago presented an amendment to point 4(c), seconded by the Government of Jamaica, to replace the word “substantive” with “effective”. The amendment sought to clarify meaning, as “effective dialogue” was easier to understand than “substantive dialogue”. The Worker Vice-Chairperson commented that in French “substantive” was translated as “fruitful”. If “effective” was closer to this sense in English, he supported the amendment. The Employer Vice-Chairperson was comfortable with either wording. The Chairperson commented that “effective” sounded better in English. With no objections from governments, the amendment was adopted.
- 211.** Another amendment to point 4 was not seconded and therefore fell.
- 212.** Point 4 was adopted, as amended.

Point 5

- 213.** The Worker Vice-Chairperson proposed an amendment to the first sentence to add “principles and” before the word “guidelines”, to bring the text more in line with the notion of guiding principles, a formulation already used in the document. The Employer Vice-Chairperson proposed a subamendment to replace the words “These guidelines” by “This framework”. The Worker Vice-Chairperson and the Governments accepted the Employers’ proposal. The amendment was adopted as subamended.
- 214.** The Government member of Pakistan proposed an amendment on behalf of Government members of a number of like-minded countries¹⁴ to add the words “through national efforts and international cooperation and in accordance with organization and resources of each member State” at the end of the first sentence, to reflect text in the 1998 Declaration and the Social Justice Declaration and to reinforce the current document. He noted the similar amendment by Bangladesh, China, India, Islamic Republic of Iran, Pakistan and Sri Lanka and suggested that the social partners choose between the two amendments.
- 215.** The Worker Vice-Chairperson opposed both amendments, which risked limiting the plan of action. Any government efforts to implement the plan of action would necessarily take place in the context of available resources. However, the amendment introduced the possibility for governments to exonerate themselves from such action on the grounds that there were insufficient resources; lack of resources was difficult to determine and could be a reflection of political or economic priorities. As such, the proposed amendments posed systemic problems.
- 216.** The Employer Vice-Chairperson agreed with the Workers’ group, recalling that this part of the text was an overview that called constituents to action. Placing limiting language at this point in the document was problematic – it went against the intention of the section.
- 217.** The Government member of India stressed that his amendment was not new text but already agreed upon in the 1998 Declaration, section 1(a), of which underlined that ILO member States undertook to work towards attaining the objectives of the Organization “to the best of their resources and fully in line with their specific circumstances”. Section IC(i) of the 2008 Declaration set out that Members determined how to achieve those objectives is subject to their international obligations and FPRW, with due regard to “the national conditions and circumstances, and needs as well as priorities expressed by representative organizations of employers and workers”.
- 218.** The Government member of Brazil supported the amendment and confirmed that the text reflected wording from the 2008 Declaration. The Government member of Mexico concurred.
- 219.** The representative of the Secretary-General acknowledged the Government member of India’s reference to the 1998 Declaration, noting that, under its paragraph 2, all member States, even those not having ratified the fundamental Conventions, had an obligation by their very membership of the Organization to respect, to promote and to realize, in good faith and in accordance with the Constitution, the principles concerning the fundamental rights that are the subject of those Conventions.
- 220.** The Government member of Pakistan requested deeper discussion of this amendment on the organization and resources of member States in implementing the action plan under

¹⁴ See footnote 12 above.

discussion. The 1998 and 2008 Declarations were adopted through consensus, so member States required clarity on whether circumstances had changed in the meantime, since this could have important implications for governments.

- 221.** The Worker Vice-Chairperson explained that the provisions of the 1998 and 2008 Declarations remained valid, and relevant to the proposed conclusions. The wording of the amendment did not accurately reflect the text in the Declarations. In particular, section I(C)(i) of the 2008 Declaration also related to the needs and priorities expressed by employers' and workers' organizations, not just national conditions and circumstances. Adding language from the Declarations could not be accepted if it did not use the same terms.
- 222.** The Employer Vice-Chairperson noted that the text quoted by the representative of the Secretary-General implicitly recognized that realizing FPRW was a step-by-step process, with several constraints that should not all be enumerated. Listing them was unnecessary in the context of a plan of action, especially given the variety of national circumstances. In any case, these conclusions would not create a new international regulation nor would they amend the still valid terms and qualifications of the 1998 Declaration.
- 223.** The Government member of India fully agreed with the representative of the Secretary-General that in paragraph 2 of the 1998 Declaration there was an obligation for ILO member States to promote, respect and realize these principles and rights. However, member States were sovereign, and practical considerations affected the realization and implementation of those principles and rights, including national circumstances.
- 224.** The Worker Vice-Chairperson agreed, but stated that point 5 of the Conclusions provided that the ILO should support constituents' efforts to meet the obligation to respect, promote and realize FPRW based on their established and expressed needs.
- 225.** The Government member of China proposed a subamendment, referring to the 1998 Declaration, to replace it with the wording "to the extent of their resources and specific circumstances".
- 226.** The Chairperson stated that the proposed wording did not refer to member States' obligations under the 1998 Declaration concerning the realization of FPRW. He emphasized that the conclusions did not override previously agreed instruments but merely supplemented them.
- 227.** The Government member of Pakistan appreciated the advice from the representative of the Secretary-General and the constructive proposal made by the Government member of China. He assured social partners that there was commitment to the realization of FPRW and suggested that there should at least be a footnote reference to the 1998 Declaration and to the Social Justice Declaration.
- 228.** The Chairperson proposed that the amendment be subamended to replace the wording with "in accordance with the terms of the 1998 Declaration on Fundamental Principles and Rights at Work".
- 229.** The Worker Vice-Chairperson accepted this subamendment, but considered there to be a misunderstanding about point 5, which should set the scene for ILO support to constituents in relation to their needs – most of which should be directed towards those constituents with the least capacity and resources.
- 230.** The Employer Vice-Chairperson agreed in principle with the Chairperson's subamendment, and in the interests of making progress moved a subamendment to replace

the wording in amendment with “consistent with the 1998 Declaration on Fundamental Principles and Rights at Work”. The Government members of India and Pakistan agreed to the proposed subamendment. The amendment was adopted, as subamended.

231. The amendment was withdrawn by the Government member of India.

232. Point 5 was adopted, as amended.

Point 6

233. Point 6 was adopted, without amendment.

Point 7

234. The Government member of France, speaking on behalf of some Government members of the IMEC group,¹⁵ proposed an amendment to replace “member States” by “constituents” in point 7(a), as discussed previously – the purpose of the amendment was to address governments, workers and employers. The earlier explanation by the Office was understood, but there was still a need to clarify that clause (a) targeted constituents and was intended to establish a framework.

235. The Employer Vice-Chairperson commented that both terms were acceptable, but wherever that same issue arose, it should be dealt with consistently throughout the document. He therefore opposed the amendment, on the understanding that member States meant all three parties. The amendment thus fell.

236. The Government member of Turkey proposed an amendment to point 7(b) to insert the word “up-to-date” after the word “accurate”. The Government member of France, speaking on behalf of some Government members of the IMEC group, supported the proposal. The Employer and Worker Vice-Chairpersons agreed. Point 7(b) was adopted, as amended.

237. One amendment to point 7(d) was not seconded, and thus fell.

238. Point 7 was adopted, as amended.

Point 8

239. The Government member of Bangladesh, on behalf of a group of Government members of like-minded countries,¹⁶ proposed an amendment to insert a new sentence at the end of the first sentence of point 8: “Violations of fundamental principles and rights at work occur in the formal economy as well.”, to recognize problems there too.

240. The Employer Vice-Chairperson deemed the amendment unnecessary, because the first sentence’s reference to the “majority” implied that the formal economy was where a

¹⁵ Australia, Austria, Belgium, Canada, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Republic of Korea, Luxembourg, Malta, Netherlands, New Zealand, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Sweden, Switzerland, Turkey and United States.

¹⁶ See footnote 12 above.

minority of violations occurred. The paragraph was intended to focus on the informal economy; the proposed change lost that thread.

241. The Worker Vice-Chairperson understood the intent of the amendment, but point 8 was not intended to minimize problems outside the informal economy. Point 9 specifically mentioned the increase in non-standard forms of employment and that raised questions on exercising FPRW in both economies. The intention of point 8 was to highlight a specific area, the informal economy, that required targeted action. That did not exclude the formal economy, which was specifically addressed later in the conclusions.
242. The Government member of Bangladesh maintained that the sentence was phrased in a way that raised concerns about the majority of violations being in the informal economy, while the lack of mention of violations in the formal economy suggested they were condoned, as they rarely occurred. The informal economy was predominant in many countries and yet most national legislation was geared towards the implementation of FPRW in the formal economy. There were efforts by governments to extend that to the informal economy, so it was important to have a correct balance and not only draw attention to the informal economy.
243. The Government member of India shared the position of the previous speaker. The protection of workers' rights in the informal economy had been a long-standing concern and he welcomed the focus on it. However, the sentence needed balance between the two economies. The addition of the formal economy did not detract from the work required in the informal economy.
244. The Employer Vice-Chairperson proposed that a solution to the problem addressed by the amendment could be to move point 10 before point 8 as it dealt with all areas. Point 8 and point 9 would then follow and point 11, which clarified what actions were needed, would remain the last point in that section.
245. The Government member of Chile opposed moving point 10 forwards, as the wording referred to "abovementioned groups". The Chairperson pointed out that the wording in point 10 could be amended to address that concern.
246. The Government member of Pakistan agreed to move point 10 as proposed, but wanted to ensure that the formal and informal economies were included in point 8. He proposed that the word "majority" be removed and after the word "violations" insert "occur in both economies, particularly the informal sector".
247. The Chairperson proposed a subamendment to change the first sentence to "While violation of fundamental principles and rights at work are not limited to any specific setting, the majority affect adults and children in the informal economy".
248. The Government member of Bangladesh agreed to the language in principle but requested clarification on the Office's use of the word "economy" which he understood referred to both the formal and informal economies for the ILO. He proposed to change the word "setting" to "economy" or "sector".
249. The Chairperson clarified that the use of the word "setting" had a broad connotation and did not limit it to one economic sector, as violations could happen anywhere. However, the majority of violations were in the informal economy.
250. The Government member of India insisted that the use of the word "setting" was still not appropriate. He agreed to rearrange the points as 10, 8, 9 and 11. The fact that point 8

started with the informal economy gave the impression that the later points were written in that context.

- 251.** Another Government member of India emphasized that it was important to use accepted international nomenclature and international norms. The word “setting” caused concern as it crossed over into areas of other international organizations. She supported the proposal made by the Government member of Bangladesh.
- 252.** The Government member of Bangladesh requested the word “setting” be replaced with “economic sector”.
- 253.** The Employer and Worker Vice-Chairpersons agreed to the idea to modify the first sentence accordingly.
- 254.** The resulting subamendment, moved by the Employer Vice-Chairperson, read “While violation of fundamental principles and rights at work are not limited to any specific economic sector, the majority affect adults and children in the informal economy”.
- 255.** The suggestion by the Government member of Bangladesh of the wording “any specific economic sector” was seconded by the Employers’ group as a subamendment and approved by the Committee.
- 256.** Regarding the order of the paragraphs, with the subsequent change to the words “the abovementioned” in paragraph 10, the Worker Vice-Chairperson stated that, in view of the change in point 8, he would accept the revised point order 10, 8, 9. The reordering was adopted.
- 257.** The Employer Vice-Chairperson introduced an amendment to insert the words “in many countries” after the words “in addition” in the second sentence, stressing that it did not refer to “all” but to “many” countries and was intended as a clarifying phrase. The Workers’ group and the Government member of France, speaking on behalf of some Government members of the IMEC group, concurred. The amendment was adopted.
- 258.** The Government member of China introduced an amendment, to replace the words “, such as migrant workers, ethnic minorities and indigenous peoples and other groups which suffer social exclusion, and categories of workers such as rural and agricultural workers, domestic workers and workers in export processing zones” with “are more vulnerable and” since the original wording did not cover all categories of workers. The Worker Vice-Chairperson opposed the amendment because the text drew particular attention to those categories of workers in view of further action within the ILO – without limiting it – and extended the focus outside the informal sector. The Employer Vice-Chairperson considered that the amendment was too general and gave no indication for action. The Government member of India supported the amendment as it would be more inclusive. In view of the lack of support from the social partners, the amendment fell.
- 259.** The Government member of Bangladesh proposed an amendment, supported by the Government members of China, India, Islamic Republic of Iran, Pakistan and Sri Lanka, to replace the words “ethnic minorities and indigenous peoples” on the third line by “socially vulnerable”, preferring not to focus on any specific category. He asked for clarification as to whether those terms were used in ILO instruments referring to that group of people. As those categories often worked in the informal economy, it was wrong to assume that they would want to move into the formal economy with regard to their social and cultural background. The Office indicated that the word “indigenous” was used in a number of Conventions and Recommendations, such as the Indigenous and Tribal Peoples Convention, 1989 (No. 169); “ethnic minorities” was used in the Job Creation in Small and

Medium-Sized Enterprises Recommendation, 1998 (No. 189); “race and ethnicity” appeared in the *Technical cooperation priorities and action plan regarding the elimination of discrimination in employment and occupation* of 2011 and the word “ethnic” was also used in a number of Conventions. The Employer Vice-Chairperson indicated that the purpose was to refer to certain at-risk categories of workers and therefore did not support the amendment. The Worker Vice-Chairperson opposed the amendment because certain categories of workers were more exposed to FPRW violations than others, although he stressed that it was not the case in all countries. In view of the explanation given by the Office and the reference made to Convention No. 169, the Government member of Bangladesh, speaking on behalf of the group of countries that had supported the amendment, suggested the insertion of “, tribal and” before “indigenous peoples”. The subamendment was adopted by the Committee.

- 260.** The Government member of Trinidad and Tobago introduced an amendment, seconded by Turkey, to add “young workers”, after the word “peoples” in the second sentence, considering that specific attention should be paid to young workers, in view of that topic’s focus at the Conference. Although the Workers’ group understood the concern expressed, point 9 on non-standard forms of employment already made specific reference to young workers and women. The Employer Vice-Chairperson concurred and furthermore indicated that point 8 referred to adults and children, which encompassed young workers. The amendment fell.
- 261.** Point 8 was adopted as amended. The order of points 8, 9 and 10 was revised, moving point 10 before point 8.

Point 9

- 262.** The Government member of Turkey proposed an amendment, which was seconded by a number of Government members of the IMEC group. The Employer Vice-Chairperson indicated that there was insufficient information to support the amendment since it was still to be determined whether workers in non-standard forms of employment were more vulnerable. Non-standard forms of employment were often an entry point to the labour market. Although the Workers differed with the Employers regarding non-standard forms of employment, the Worker Vice-Chairperson reiterated that the purpose of the text was to identify categories of at-risk workers for ILO action, thus the qualification added by the amendment was not in line with the meaning of the text. The amendment fell.
- 263.** Point 9 was adopted, without amendment.

Point 10

- 264.** Another amendment was withdrawn.
- 265.** The Government member of Bangladesh, speaking on behalf of the Government members of China, India, Islamic Republic of Iran, Pakistan, and Sri Lanka, proposed a subamendment to their amendment to delete point 10 entirely, because – following the reordering of points 8–10 – he preferred to reword the second sentence “Efforts are also required to support the organization of the groups and categories mentioned below through their most representative bodies and the creation of processes of collective bargaining and social dialogue where their voices can be heard.”.
- 266.** The Worker Vice-Chairperson believed the text should remain unchanged, since it clearly allowed those workers to form and join unions that could represent them.

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- 267.** The Government member of Bangladesh withdrew the amendment.
- 268.** The Government member of Mexico, speaking on behalf of Argentina, Brazil, Chile and the Bolivarian Republic of Venezuela, proposed an amendment to replace “expeditivos” by “expeditos” in the third line of the Spanish version of point 10 (which did not affect the English or the French versions). The amendment was adopted.
- 269.** The Government member of Mexico, speaking on behalf of Argentina, Brazil, Chile and the Bolivarian Republic of Venezuela, proposed an amendment to replace the words “negociar colectivamente” by “de negociación colectiva” in the fourth line of the Spanish version of point 10 (which did not affect the English or the French versions). The Government member of Argentina subamended it to read “la negociación colectiva”.
- 270.** As the amendment involved no change in substance, it was adopted as amended.
- 271.** Following discussions between the groups and as a result of changing the order of points 8, 9 and 10 in the section on “Fundamental principles and rights at work are accessible to all” the Workers’ group proposed to delete the word “abovementioned” after “organization of the” in the fourth line of point 10, and to insert the words “referred to below” after “categories” in the fifth line of that point.
- 272.** The amendment was adopted.
- 273.** Point 10 was adopted, as amended.

Point 11

- 274.** The Government member of India, speaking on behalf of Government members of like-minded countries,¹⁷ submitted an amendment, to insert after “ILO” the words “in concurrence with individual member States,”. He considered that a “one-size-fits-all” approach could not be applied in all member States, so the ILO should strengthen national systems in consultation with the relevant parties, keeping in mind conditions in the specific country. In response to the Chairperson’s request for clarification on the coherence of this proposed amendment with clauses (a) to (d), he explained that those clauses referred to the terms and conditions of technical assistance, and the amendment was in line with Section II(C) of the Social Justice Declaration Follow-up, on technical assistance and advisory services, which he quoted, underlining that sub-clauses (i) to (iv) of Section II(C) covered the same topic as clauses (a) to (d) of point 11. He considered that what was stated in point 11 should be done only in agreement with the respective governments, as in the 2008 Declaration. National studies should only be undertaken by the ILO at the request of the government of the country concerned.
- 275.** The Employer Vice-Chairperson stated the ILO normally worked at the request – or with the acceptance – of the government, so he did not support the amendment.

¹⁷ Afghanistan, Bahrain, Bangladesh, Brunei Darussalam, Cambodia, China, Fiji, India, Indonesia, Islamic Republic of Iran, Iraq, Jordan, Kiribati, Republic of Korea, Kuwait, Lao People’s Democratic Republic, Lebanon, Malaysia, Republic of Maldives, Mongolia, Myanmar, Nepal, Oman, Pakistan, Papua New Guinea, Philippines, Qatar, Saudi Arabia, Singapore, Solomon Islands, Sri Lanka, Syrian Arab Republic, Thailand, Timor-Leste, United Arab Emirates, Viet Nam and Yemen.

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- 276.** The Worker Vice-Chairperson recalled the discussion held previously regarding point 5, where the 1998 Declaration had been referred to; this might address the concerns expressed by the Government member of India. In his opinion, this applied to the remainder of the text. Therefore, given that the Government member of India's concern had already been addressed, he called on him to consider withdrawing the amendment.
- 277.** The Government member of Pakistan underlined that the issue under discussion was about the framework for cooperation between the ILO, governments, employers and workers. Such cooperation in international forums should be in accordance with the UN Charter with respect to sovereignty. The amendment would only reaffirm that principle.
- 278.** The Chairperson suggested that, as point 18 specifically discussed technical cooperation and capacity building, the concerns of the Governments could be addressed there.
- 279.** The Government member of France, speaking on behalf of the IMEC group, considered that the concerns were addressed elsewhere in the text, and therefore did not support the amendment.
- 280.** The Government member of India clarified that the amendment was intended to make the text more practical, in the context of the point's focus on vulnerable groups and on effective implementation, as the cooperation of the State was needed. She added that the proposed amendment was accepted language in any international document.
- 281.** The Worker Vice-Chairperson understood the concerns regarding the categories of workers needing technical assistance. These concerns were addressed in point 5, which was in effect a chapeau to the framework for action and had specifically been amended to place it within the context of the 1998 Declaration; this should reassure Government members that there was no risk of national sovereignty being called into question.
- 282.** The Government member of China commented that in reality member States were always called on for support by the ILO in cases of technical cooperation and this would continue to be the case whether or not the amendment was adopted.
- 283.** The Government member of Pakistan appreciated the intervention by the Workers and understood the comments by the Government member of China. In an effort to find a solution, he proposed a subamendment that would highlight the role of member States, namely to replace the words "Regarding the" with the words "Considering the leading role of member States with regard to".
- 284.** The Employer Vice-Chairperson supported the comments of the Government member of China and thought that there was nothing to be concerned about. It should be recalled that these conclusions were not a legal document: they were a framework for action that outlined future work, without entering into details, and not mentioning countries to which it might apply.
- 285.** The Worker Vice-Chairperson concurred. He repeated his understanding of the concerns of the countries proposing the amendment and confirmed that these had already been heard and addressed when amending point 5.
- 286.** The amendment fell.
- 287.** The Government member of Bangladesh respected the decision of the Chairperson, though he considered it unfortunate. He was reassured by the interventions by the social partners, but wished to highlight the uncomfortable and unpalatable reality that in several countries

there were concerns that the ILO did not always consult and coordinate in the proper manner with governments, and these should be addressed.

- 288.** The Chairperson noted that the Office would be willing to discuss this matter with the concerned member States.
- 289.** The Worker Vice-Chairperson introduced an amendment to replace “davantage d’attention” with the words “une attention toute particulière” in French and to replace “darles más relevancia” with the words “prestarles una atención particular” in point 11(a). These were linguistic changes, which did not affect the English.
- 290.** The amendment was adopted.
- 291.** The Government member of Trinidad and Tobago introduced an amendment to delete the words “its focus on them” in the same point 11(a), explaining that this was an unnecessary phrase and its deletion would improve the flow of this clause.
- 292.** The Employer Vice-Chairperson considered that the current wording was the right combination of words, as the focus was quite specifically on the categories of workers rather than on strengthening technical cooperation generally.
- 293.** The Worker Vice-Chairperson concurred, and the Government member of Zambia, speaking on behalf of the Africa group, agreed that the word “focus” strengthened the emphasis on these groups of workers.
- 294.** The amendment fell.
- 295.** The Government member of Brazil proposed an amendment, on behalf of Argentina, Chile, Mexico and the Bolivarian Republic of Venezuela, to delete the words “organize a meeting of experts” in the first line of point 11(b). Her Government respected the work of the ILO and appreciated the help given to her country in strengthening labour inspection. However, the framework for action suggested three separate meetings of experts, which would probably include the same experts each time: in an era of videoconferences and email this appeared excessive. Technical cooperation was an efficient use of resources, while meetings in Geneva were expensive. If funding could be found for these meetings without having a negative impact on the resources available for technical cooperation, she would be able to withdraw the amendment.
- 296.** The Worker Vice-Chairperson understood the concerns over resources, which were shared by all, but opposed the amendment. The meetings would be spread over four years and the resources could be found within the overall programme and budget. The cost should be seen within the context of defending FPRW for millions of people around the world.
- 297.** The Employer Vice-Chairperson understood the problem, but the ILO had a variety of tools at its disposal – a meeting of experts was the most dynamic of these: an interactive discussion of different perspectives and practices in order to understand an issue. It was an essential precondition to planning procedural steps. In his view, videoconference was not the best way to hold such a meeting: it was effective for meetings of an hour or so, while a meeting of experts should last one or more days.
- 298.** The Government member of Brazil withdrew the amendment, given the agreement between the social partners.
- 299.** The Government member of Trinidad and Tobago, seconded by Turkey, proposed an amendment to delete “possible positive and negative” in the second line of point 11(b) as

these words did not add to the meaning. The Employer Vice-Chairperson did not support the amendment. He explained that the wording reflected the diversity of views expressed by the members of the Committee and of the Drafting Group on whether impacts of non-standard forms of employment were positive or negative. The Worker Vice-Chairperson agreed with the Employers and did not support the amendment. He explained that the Workers' group thought that new forms of work that led to precarious employment situations had a negative impact on FPRW. This difference in opinion highlighted the need for a meeting of experts to see where the balance lay and what approaches were necessary. No Government members wished to take the floor and the amendment fell.

- 300.** The Employer Vice-Chairperson proposed an amendment to point 11(c) to add “, undertake research and support national studies” after the words “organize a meeting of experts” in the first line. This was simply to align the wording of clauses (b) and (c) and to clarify that, in addition to a meeting of experts, there should also be research and data collection that could provide the basis for a decision on standard setting, for example. The Worker Vice-Chairperson agreed. The Government member of France, speaking on behalf of the IMEC group, questioned the need for the specificity of “national studies”, considering that the ILO would support all relevant studies. The Employer Vice-Chairperson reiterated the intention to align the texts of clause (c) with clause (b), which also used “national studies”. Clause (c) related to understanding the informal economy, which had an important national context to be considered. He agreed that all studies would be supported, but national studies were important given the topic. The amendment was adopted.
- 301.** The Employer Vice-Chairperson introduced an amendment to point 11(d), to add the words “of employment, social protection and social dialogue” at the end of the clause. The purpose of explicitly listing the three other strategic objectives was to strengthen the emphasis on integrated and coherent action across all four strategic objectives, which had been a recurrent theme throughout the Committee’s discussions. The Worker Vice-Chairperson supported the amendment, which reiterated the wording of the defined objectives. The Government member of France, speaking on behalf of the IMEC group, also expressed support. The amendment was adopted.
- 302.** Four further amendments regarding point 11 were withdrawn.
- 303.** Point 11 was adopted, as amended.

Point 12

- 304.** Point 12 was adopted, without amendment.

Point 13

- 305.** The Government member of India introduced an amendment submitted by Bangladesh, China, Islamic Republic of Iran and Sri Lanka to add the words “within the framework of sovereign functions of a state” at the end of point 13(a). According to Convention No. 81, labour inspection was the responsibility of national governments and the Committee’s conclusions could not substitute the government functions by giving legitimacy to third party inspectors or accreditation agencies. Voluntary standards and CSR initiatives could not be encouraged in this text since they did not evolve through a transparent tripartite process. Only the ILO had this mandate and other agencies could not encroach upon it. It was not acceptable for the text to compromise or replace the adjudicative systems of member States in an arbitrary manner.

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- 306.** The Worker Vice-Chairperson opposed the amendment and cautioned that this opened up an earlier debate about limits on government action conditioned on national circumstances. He agreed that enforcement was a government prerogative as part of its responsibility to uphold international labour standards. The amendment did not, in fact, address the concern of third party action. In any case, the current text did not call into question the sovereignty of member States in their enforcement and compliance function.
- 307.** The Employer Vice-Chairperson did not consider the amendment appropriate since point 13 dealt with the enforcement of FPRW at the national level, and not alternatives to government action. The current wording of point 13(a) did not question the sovereignty of governments and made no reference to third party action, whether that of the ILO, multinational enterprises or CSR initiatives.
- 308.** The Government member of France, speaking on behalf of the IMEC group, and the Government member of Zambia, speaking on behalf of the Africa group, did not support the amendment.
- 309.** The Chairperson noted that, as there was insufficient support, the amendment fell.
- 310.** The Government member of Trinidad and Tobago proposed an amendment to replace point 13(c), seconded by Jamaica, with the following text: “with respect to forced labour and child labour, developing synergies and collaboration between criminal justice, labour institutions and other relevant agencies with a view to monitoring and strengthening protection of affected persons and preventing incidents of child and forced labour;”. The purpose of the amendment was not to change the content of the text but to strengthen its meaning with alternative wording.
- 311.** The Employer Vice-Chairperson noted the explanation that the wording was not meant to affect the content of point 13(c). He did not, however, support the amendment. It was simpler to maintain the text as it was and avoid possible misunderstandings about the reasons for changing the wording. The Worker Vice-Chairperson agreed with the Employers’ group. The proposed amendment created an ambiguity by introducing the term “and other relevant agencies”, which made it unclear what agencies were meant. In the absence of any further comments from Committee members, the Chairperson concluded that there was insufficient support and the amendment fell.
- 312.** The Worker Vice-Chairperson introduced an amendment to replace the words “actively promoting” at the beginning of point 13(e) with “respecting, promoting and realizing”. This formulation was used throughout the text and would improve the document’s consistency. Moreover, point 13 concerned action by governments; such action covered should not only include efforts to realize FPRW in a general manner but also with specific regard to government’s role as an employer in the public sector and civil service.
- 313.** The Employer Vice-Chairperson supported the amendment and recalled that when member States had made a commitment to FPRW, it was a commitment to respect, promote and realize these principles and rights.
- 314.** The Government member of Canada thought that the amendment rendered the clause incoherent and was also unnecessary given that the 1998 Declaration already addressed this issue. Given that point 13 called on governments to “consider” taking a number of measures, reference to “respecting, promoting or realizing” FPRW was inappropriate, as there was an obligation to do so. However, the aim of point 13(e) was that governments take specific actions to promote actively freedom of association and collective bargaining.

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- 315.** The Worker Vice-Chairperson, noting Canada’s concerns, proposed a subamendment to added the phrase “according to their obligations” at the end of point 13(e).
- 316.** The Government member of New Zealand agreed with Canada’s position and noted that the Workers’ subamendment weakened the text, as point 13 was about active promotion of FPRW. Making reference to member States’ obligations simply restated the existing situation.
- 317.** The Worker Vice-Chairperson withdrew their earlier subamendment and suggested to transform point 13(e) into a stand-alone new point 14. The Chairperson noted that such a restructuring of the text raised additional drafting problems and suggested, as an alternative, that the words “Means to respect, promote and realize” be considered instead of the original amendment proposed by the Workers’ group.
- 318.** The Employer Vice-Chairperson agreed with the Chairperson’s suggestion.
- 319.** The Government member of Canada reiterated that the words “respect, promote and realize” in point 13(e) were repetitive and problematic given that governments would be asked to “consider” respecting FPRW. The Chairperson clarified that the subamendment under discussion focused on asking governments to consider the means of action. In the absence of any objections, the amendment was adopted, as subamended.
- 320.** Point 13 was adopted, as amended.

Point 14

- 321.** The Government member of Denmark introduced an amendment submitted by some Government members of the IMEC group¹⁸ to replace point 14(b) with the following text: (b) “may advise, through social dialogue, the labour inspection and other enforcement institutions while these institutions shape their priorities and activities with respect to fundamental principles and rights at work.” She reaffirmed the importance of social dialogue in the context of labour inspection and recalled Convention No. 81 which placed emphasis on the independence of labour inspection.
- 322.** The Employer Vice-Chairperson understood the objective of the amendment to be stressing independence of labour inspection and that this objective might be achieved in a simpler way than by replacing the entire point with new text. The Worker Vice-Chairperson considered that an explicit mention of the notion of independence in the text could be a useful reminder that labour inspection institutions, services and monitoring must work on the basis of independence.
- 323.** The Government member of Denmark, speaking on behalf of the IMEC group, proposed a subamendment to replace the words “contribute to” with the words “may advise on” in the beginning of point 13(b) and to add, at the end, the words “keeping in mind the independence of these institutions”.

¹⁸ Australia, Austria, Belgium, Canada, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Republic of Korea, Luxembourg, Malta, New Zealand, Norway, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Sweden, Switzerland, Turkey and United States.

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- 324.** The Employer Vice-Chairperson proposed a further subamendment to not include the words “on shaping” as these were not necessary and to omit the phrase “keeping in mind the independence of these institutions” but instead add the word “independent” before “labour inspection”.
- 325.** The Chairperson inquired whether the Employer Vice-Chairperson’s subamendment could not be read to assume that all labour inspections were independent and that usually labour inspection was part of a public administration department. In this regard, the Employer Vice-Chairperson clarified that, in his view, the concept of independence meant that labour inspections and other institutions were not infected with corruption.
- 326.** The Government member of Denmark, speaking on behalf of the IMEC group, agreed with the subamendment. The Worker Vice-Chairperson also agreed with the subamendment and added that the term independence implied independence from undue external influences, and also highlighted the need for impartiality and neutrality. He added that governments are often confronted by budgetary issues that impeded the work of labour inspection.
- 327.** The Government member of Pakistan, speaking on behalf of Government members of a group of like-minded countries,¹⁹ supported the amendment, as subamended, and withdrew an amendment to point 14(b) which had been submitted by that group.
- 328.** The Employer Vice-Chairperson then proposed to modify further his earlier subamendment to refer to “impartial and independent labour inspection”. This was supported by the Government member of Denmark, speaking on behalf of the IMEC group, and the Government member of Pakistan, speaking on behalf of the abovementioned group of like-minded countries. The Worker Vice-Chairperson noted that the concept of impartiality was overall more related to dispute settlement mechanisms that could render final decision, such as the courts, rather than to labour inspection. Hence, he was reluctant to include this notion. The Employer Vice-Chairperson withdrew his subamendment.
- 329.** The amendment was adopted, as subamended. The Chairperson noted an editorial change would have to be made to move the word “should” in the chapeau of point 14 and to the beginning of clause (a).
- 330.** Point 14 was adopted, as amended.

Point 15

- 331.** The Government member of Trinidad and Tobago, seconded by Jamaica, subamended their original, proposed amendment to point 15(a) to add after the clause “including an independent judiciary” the words “and national courts” in order to reflect the existing reality in the Caribbean where some national courts were not strictly legal bodies and did not form part of the judiciary. With the term “judiciary” in the Caribbean referring to the magistrates, high and appellate courts, these national courts would remain outside of the intended scope for ILO action.

¹⁹ Afghanistan, Bahrain, Bangladesh, Brunei Darussalam, Cambodia, China, Fiji, India, Indonesia, Islamic Republic of Iran, Iraq, Jordan, Kiribati, Republic of Korea, Kuwait, Lao People’s Democratic Republic, Lebanon, Malaysia, Republic of Maldives, Mongolia, Myanmar, Nepal, Oman, Pakistan, Papua New Guinea, Philippines, Qatar, Saudi Arabia, Singapore, Solomon Islands, Sri Lanka, Syrian Arab Republic, Thailand, Timor-Leste, United Arab Emirates, Viet Nam and Yemen.

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- 332.** The Employer Vice-Chairperson stated that the objective of point 15(a) was for the ILO to provide assistance to strengthening the capacity of different national institutions. The word “including” highlighted the judiciary but did not exclude any other institutions that were relevant for the enforcement of fundamental principles and rights at work at the national level. As it was not possible to add a comprehensive list to cover all the differences between countries, the Employers’ group opposed the amendment.
- 333.** The Worker Vice-Chairperson agreed with the Employers that strengthening the capacity of “different national institutions” as stated in point 15(a) covered various types of courts existing in member States. The difficulty with the amendment was that, if reference was to be made to the particularities of one region, this would have to be done for others as well. The Workers’ group therefore did not support the amendment.
- 334.** The Government member of Trinidad and Tobago reiterated the importance of adding national courts to the text, as otherwise the text would be simply incorrect vis-à-vis the situation in the Caribbean. The Chairperson proposed a subamendment to include in the first line of point 15(a), strengthening the capacity of “different national courts and institutions”. The Government member of Trinidad and Tobago, the Employer Vice-Chairperson, the Worker Vice-Chairperson and the Government member of Mexico supported that proposal.
- 335.** In response to a query by the Government member of France on whether the suggested wording was in line with the chapeau of point 15, which referred to the 2011 ILC conclusions on labour administration and labour inspection, the Chairperson considered that this was the case; the text of the chapeau suggested that the 2011 ILC conclusions should be borne in mind, while the intent of the point was elaborated in clauses (a) to (c).
- 336.** The amendment was adopted, as subamended. An amendment to point 15(c) was withdrawn.
- 337.** Point 15 was adopted, as amended.

Point 16

- 338.** The Government member of India, speaking on behalf of Bangladesh, China, Islamic Republic of Iran, Pakistan and Sri Lanka, sought clarifications on the meaning of the term “Office-wide coherence and coordination” in point 16. The Chairperson stated that it meant coordination across the International Labour Office in the projects undertaken in support of its work on FPRW. Noting these clarifications, the Government member of India withdrew an amendment to point 16 submitted by the abovementioned countries.
- 339.** The Government member of China, seconded by Pakistan, proposed an amendment to add the sentence “The four strategic objectives are inseparable, interrelated and mutually supportive.” after the second sentence and delete the final sentence. He explained that the point mentioned that ILO actions should take into account interlinkages with the other three strategic objectives, but it was also important to note that all four strategic objectives were equally important. The current text could be read as suggesting that FPRW were more important than the other three strategic objectives. The last sentence overlapped with the penultimate sentence. Deletion was proposed to avoid repetition.
- 340.** The Worker Vice-Chairperson emphasized that ILO means of action must be linked to the four strategic objectives with coordination and coherence at the ILO level so that mainstreaming was guaranteed. As this was raised in Report VI, it was important to ensure mainstreaming. The Workers therefore opposed the amendment.

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- 341.** The Employer Vice-Chairperson reminded the Committee that the conclusions focused on FPRW and to the related steps and plan of action to go forward. The purpose of the document was to emphasize the ILO actions expected by the constituents. The Social Justice Declaration, cited in the beginning of point 16, already included what was in the proposed amendment. Importantly, the text of point 16 was in line with the spirit of that Declaration, and focusing on the fact that FPRW should be mainstreamed in ILO activities to accomplish the intention of the Declaration. Hence, the Employers opposed the amendment.
- 342.** The Government member of China explained that it had no objection to the notion of mainstreaming, but asked the Office for examples illustrating how this would be done practically with regard to FPRW. In response, the deputy representative of the Secretary-General (Mr Kamran Fannizadeh) explained that, for example, the principle of non-discrimination was also addressed in the context of projects on disability or social security. Similarly, work on migration could address the abolition of forced labour and human trafficking. FPRW were relevant to all ILO strategic objectives. Projects might focus on one particular objective, but they could also incorporate others. The most obvious example was gender mainstreaming, which was applied by the Office in all its projects.
- 343.** In the absence of sufficient support, the amendment therefore fell.
- 344.** Point 16 was adopted.

Point 17

- 345.** The Employer Vice-Chairperson proposed an amendment to replace the word “attributed” in the first line of clause (b) with “allocated”. It affected only the English version, and provided greater precision on the intention of the section. The amendment was adopted.
- 346.** The Worker Vice-Chairperson proposed an amendment, affecting only the French text, to replace the word “rationnel” in the third line of clause (b) with the word “efficient”. The amendment was adopted.
- 347.** The Employer Vice-Chairperson introduced an amendment to add the word “national” before “tripartite” in the third line of clause (c) to provide greater clarity. Although he agreed with supporting national constituents, the Worker Vice-Chairperson did not support the amendment as it might exclude support through ILO units such as ACT/EMP and ACTRAV or international employers’ and workers’ organizations. The Government member of France, speaking on behalf of the IMEC group, considered the text already referred to activities at the national level. In view of those arguments, the Employers’ group withdrew the amendment.
- 348.** An amendment to point 17(d) was withdrawn.
- 349.** Point 17 was adopted, as amended.

Point 18

- 350.** An amendment to point 18(b) was not seconded and therefore fell.
- 351.** The Government member of Trinidad and Tobago introduced an amendment to point 18(c), seconded by Jamaica, to add the words “and national courts” after the word “judiciary”. The amendment followed the same rationale as her amendment to point 15,

whereby the judiciary did not include national courts in Caribbean countries. The Workers considered that a similar approach could be taken as to the earlier amendment. The Employer Vice-Chairperson suggested that the word “all” could be included before the word “law”, which would cover all possibilities. The Government member of Trinidad and Tobago thought that the proposal did not solve the problem. The Chairperson suggested the inclusion of the word “courts” after “law enforcement institutions” and the Government member of the United States suggested including a reference to “all other relevant institutions”. The Employers accepted the Chairperson’s suggestion but proposed deleting the word “law” before “law enforcement institutions”. The Workers also endorsed the Chairperson’s proposal but considered that removing the word “law” would make the text less precise. The Government representative of Trinidad and Tobago supported the Workers’ view and accepted the Chairperson’s suggestion. On this basis, the amendment was adopted as subamended.

352. Point 18 was adopted, without amendment.

Point 19

353. Considering that an amendment to point 5 had been adopted to include the words “consistent with the 1998 Declaration”, the Government member of India, speaking on behalf of Government members of a number of like-minded countries²⁰ withdrew four amendments to point 19(a). Another amendment was withdrawn.

354. Point 19 was adopted.

Point 20

355. An amendment to point 20(b) was withdrawn.

356. The Government member of France, speaking on behalf of some Government members of the IMEC group,²¹ proposed an amendment to replace the word “where” with the word “whether” in the introductory sentence in point 20(c), to ensure the wording in English reflected the substance of the discussion held in the Drafting Group. The amendment would not affect the French and Spanish versions. The Employer Vice-Chairperson felt that the word “whether” better translated the intention behind the text. The Worker Vice-Chairperson also considered that the French “si” should be translated to “whether” in English. The need for new standard setting would be examined by the studies and the meetings of experts. The amendment was adopted.

²⁰ Afghanistan, Bahrain, Bangladesh, Brunei Darussalam, Cambodia, China, Fiji, India, Indonesia, Islamic Republic of Iran, Iraq, Jordan, Kiribati, Republic of Korea, Kuwait, Lao People’s Democratic Republic, Lebanon, Malaysia, Republic of Maldives, Mongolia, Myanmar, Nepal, Oman, Pakistan, Papua New Guinea, Philippines, Qatar, Saudi Arabia, Singapore, Solomon Islands, Sri Lanka, Syrian Arab Republic, Thailand, Timor-Leste, United Arab Emirates, Viet Nam and Yemen.

²¹ Australia, Austria, Belgium, Canada, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Republic of Korea, Luxembourg, Malta, New Zealand, Netherlands, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Sweden, Switzerland, Turkey and United States.

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- 357.** The Government member of Brazil, speaking on behalf the Government members of Argentina, Chile, Mexico and the Bolivarian Republic of Venezuela, introduced and subamended the amendment regarding point 20(c)(i). The proposal was to replace in Spanish the word “indemnización” with “compensación”, without any change in the English and French versions. The amendment was adopted, as subamended.
- 358.** The Government member of Pakistan, speaking on behalf of the Government members of a number of like-minded countries,²² proposed an amendment to delete point 20(c)(ii). He explained the proponents were not against addressing the issue of human trafficking. It was also acknowledged that there might be gaps in ILO standards on forced labour in this regard, but the wording of sub-clause (ii) was considered inappropriate since it referred to “recent developments in international law” rather than to international labour standards. He requested clarification on whether that sub-clause was about the adoption of a new instrument complementing the Palermo Protocol,²³ which was under the responsibility of the United Nations Office on Drugs and Crime Protocols, or whether it was about updating ILO standards regarding forced labour.
- 359.** The Employer Vice-Chairperson considered that the possibility of engaging in new standard setting was to be an open question.
- 360.** A member of the secretariat (Ms Beate Andrees) stated the Palermo Protocol and the ILO standards on forced labour were complementary and that point 20(c)(ii) encouraged looking into the specific labour aspects of trafficking.
- 361.** The Chairperson commented that point 20(c)(ii) intended to invite the ILO to analyse and research whether there was a need for setting new ILO standards. It was in no way predetermining the outcome of such research, but simply raising the topic.
- 362.** The Worker Vice-Chairperson agreed with the Chairperson and considered that the previously adopted amendment to replace “where” by “whether” in the introductory sentence of clause (c) explicitly appeared to have addressed the concerns raised by the Government members of Pakistan and India. It was thus clear that, if the analysis and meetings of experts led to the conclusion that further standard setting would be needed, such outcomes would then have to be discussed.
- 363.** Following that discussion, the Government member of Pakistan suggested a subamendment to delete the words “in view of recent development under international law” at the end of 20(c)(ii), in order to avoid misunderstanding.
- 364.** The Worker Vice-Chairperson had no objection. The Employer Vice-Chairperson did not object in order to move forward in the proceeding, noting that, given some 21 million individuals were presently subject to forced labour, with large numbers being victims of trafficking, as reported to the Committee, further investigations into the matter were urgently needed.

²² Afghanistan, Bahrain, Bangladesh, Brunei Darussalam, Cambodia, China, Fiji, India, Indonesia, Islamic Republic of Iran, Iraq, Jordan, Kiribati, Republic of Korea, Kuwait, Lao People’s Democratic Republic, Lebanon, Malaysia, Republic of Maldives, Mongolia, Myanmar, Nepal, Oman, Pakistan, Papua New Guinea, Philippines, Qatar, Saudi Arabia, Singapore, Solomon Islands, Sri Lanka, Syrian Arab Republic, Thailand, Timor-Leste, United Arab Emirates, Viet Nam and Yemen.

²³ The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children to the United Nations Convention against Transnational Organized Crime.

365. The amendment was adopted, as subamended.

Point 20(c)(iii)

366. The Government member of Trinidad and Tobago withdrew an amendment.

367. The Employer Vice-Chairperson proposed an amendment to point 20(c)(iii) to replace the word “complaint” with “alternative” in relation to mechanisms for dispute resolution, as there was a wide array of mechanisms available, not only complaints mechanisms.

368. The Worker Vice-Chairperson recalled numerous discussions prior to the drafting of sub-clause 20(c)(iii) and he suspected there could be even more discussion around the Employers’ amendment, without leading to a conclusion that satisfied all parties. Given that 2013’s recurrent discussion in the ILC would allow for ample discussion of social dialogue mechanisms and instruments in a broader context, he proposed a subamendment to delete the sub-clause entirely.

369. The Employer Vice-Chairperson agreed and the amendment was adopted, as subamended.

370. Another amendment consequently fell.

371. Point 20 was adopted, as amended.

Point 21

372. Point 21 was adopted, without amendment.

Point 22

373. The Government member of South Africa, speaking on behalf of the Africa group, proposed that the word “coordination” in the second line of point 22 be replaced by the word “consistency”, to ensure consistency between the positions adopted by governments in the ILO and in other forums with regard to FPRW. The notion of coordination was already contained in the second sentence in the reference to “mechanisms for consultation”, making the use of the word “coordination” unnecessary.

374. The Worker Vice-Chairperson did not oppose the amendment and shared the same understanding of the text as the Africa group.

375. The Employer Vice-Chairperson noted that while the words “consistency” and “coordination” were overlapping, they did not have the same meaning. He proposed a subamendment to use the words “coordination and consistency”.

376. The Government member of South Africa accepted the Employers’ proposal. The amendment was adopted, as subamended.

377. The Worker Vice-Chairperson proposed an amendment to insert “meaningful” in the last sentence after the word “for”, to give greater precision to the desired quality of tripartite consultation. The practice of consultation did not necessarily imply negotiation or a resulting agreement, but there was at least an expectation of meaningful and effective consultation.

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- 378.** The Employer Vice-Chairperson liked the word “meaningful” but felt it was imprecise. He proposed a subamendment replacing the original Worker amendment by “meaningful, constructive and effective”. The Worker Vice-Chairperson supported the proposal.
- 379.** The Government member of New Zealand noted that the Drafting Group had already had an in-depth discussion on this issue. He considered that more adjectives did not necessarily make the text more meaningful. Consultation implied a mechanism that was determined by national governments and no guarantee could be given in advance about the character or results of such consultations. Multiple adjectives did not change that fact.
- 380.** The Employer Vice-Chairperson stated that, for the social partners, consultations needed to be constructive, and at least effective, because the purpose was to arrive at an outcome, not just hold consultations for their own sake. The words “meaningful, constructive and effective” captured important elements of good faith consultation.
- 381.** The Worker Vice-Chairperson recognized that this had already been discussed at length in the Drafting Group, but supported the Employers’ subamendment.
- 382.** The Government member of the United States agreed with the Government member of New Zealand that the fewer the adjectives the better. There was much overlap between the words proposed by the Employers; she preferred using the word “effective”. However, she would accept whatever was agreed between the Employers’ and Workers’ groups. The Government member of Trinidad and Tobago indicated that “effective” was adequate to convey the sentence meaningfully, and the Government member of New Zealand concurred.
- 383.** The Employer and Worker Vice-Chairpersons agreed to keep only the word “effective”. The amendment was adopted, as subamended.
- 384.** The Government member of India withdrew an amendment but asked the Office for clarification on the meaning of “among concerned ministries” and whether it was the usual terminology of the ILO. The Chairperson indicated that the word “ministries” was meant in its broadest sense to include all possible administrative units within a government.
- 385.** Point 22 was adopted, as amended.

New point to be inserted after point 22

- 386.** The Government member of Turkey proposed an amendment, seconded by the IMEC group and Trinidad and Tobago – originally intended as a new clause (d) under point 18 – to add a new point “Upon request, facilitate cooperation between member States and other international organizations in support of national measures to realize fundamental principles and rights at work” – intended to highlight the guidance role of the ILO. He subamended it to add the words “The ILO should,” at the start of the phrase, so that it could become a new point between points 22 and 23. Intensifying relations with other organizations would be beneficial to member States, and cooperation with financial institutions was of particular importance during the crisis, contributing to economic and social policies affecting all actors in the economy.
- 387.** The Employer Vice-Chairperson’s first impression was that the sense of the proposed wording was already conveyed in point 22 and that it was not needed.
- 388.** The Worker Vice-Chairperson explained that point 22 was very close to the Workers’ hearts and was the subject of many amendments. Section V related to the organization of

the ILO's work with the multilateral agencies; within this, point 22 covered the question of the action to be undertaken by the social partners and the concerned ministries within member States. The new element proposed by Turkey was for the ILO, upon request, to support cooperation between member States and international organizations in the context of national activities. Point 22 could be supplemented with wording from the amendment, or it might become a clause in point 23 as this concerned the ILO's role in policy coherence.

- 389.** The Government member of France, speaking on behalf of the IMEC group, questioned the logic of linking the amendment to point 22 when these were two different issues. In addition, point 22 was already a very clear invitation to governments for internal coordination at the international level, while the amendment called on the ILO to work at the international level. These were not the same and he preferred the discussions to remain separate.
- 390.** The Government member of Chile suggested that the best position for the new wording was as a new clause (d) under point 18, as it did not seem to fit in point 22.
- 391.** The Chairperson reflected that the Committee seemed to be happy with the proposed wording but that there was no consensus on the positioning. The wording could be understood to relate specifically to technical cooperation and so logically be placed in point 18, but could also be read more broadly. He summarized his understanding of the flow of ideas in Section V. Point 22 covered the role of the ILO with regard to the member States; point 23 referred to the role of the ILO with regard to the multilateral organizations. Turkey's amendment referred to the ILO's support for the member States with regard to the multilateral organizations. Given this hierarchy, the best position for the new wording would be between points 22 and 23.
- 392.** The Employer Vice-Chairperson stated that the amendment was about facilitating cooperation between member States and the multilateral system, but this was already covered in point 23 which called on the ILO to "encourage policy coherence": it was about achieving FPRW at the national level through the ILO's role internationally and its relationship with the member States. The amendment did not lead anywhere helpful and would be unnecessary.
- 393.** The Worker Vice-Chairperson considered the suggestion to place the amendment after point 22 was logical and coherent. Unlike the Employers, the Workers' group felt that this proposal added a new dimension to the text. The amendment required member States to request assistance before ILO assistance was given.
- 394.** The Chairperson explained that point 22 covered the steps member States would take to ensure their internal positions with regard to the ILO and other forums were coordinated on matters of FPRW, while point 23 addressed the relationship between institutions in the multilateral system. The amendment was an intermediate consideration about the relationship between member States and other international organizations to support national efforts on FPRW.
- 395.** The Government member of France, speaking on behalf of the IMEC group, and the Employer Vice-Chairperson agreed with the Chairperson's suggestion to insert the amendment after point 22. The amendment was adopted, as subamended.

Point 23

- 396.** The Government member of Pakistan, speaking on behalf of a group of like-minded countries,²⁴ proposed an amendment to the first sentence of point 23 to add after “multilateral system” the phrase “for the realization of fundamental principles and rights at work provided that the objectives, implementation processes and the results from these partnerships are clearly defined”. He recognized the significance of this point on partnerships between the ILO and other organizations with mandates in closely related fields. It was critical, however, to define and regulate the basis of such relationships, which was the purpose of the additional text. The amendment sought to clarify the interaction with other institutions to ensure that it was consistent with the ILO’s mandate and Constitution.
- 397.** The Employer Vice-Chairperson indicated that point 23 taken as a whole rendered the amendment unnecessary. He agreed with the objective of the amendment but recalled that this was a framework for action; the ILO would not undertake such partnerships without defining them clearly.
- 398.** The Worker Vice-Chairperson agreed with the spirit of the amendment. The objective of such partnerships was, in all cases, to promote FPRW. It was unnecessary to require that the process and results of these partnerships be clearly defined since the ILO’s objectives and priorities on FPRW were already precise. He proposed to leave the text as it was, or to adopt only the first part of the amendment “for the realization of fundamental principles and rights at work”.
- 399.** The Government member of India noted the purpose of the amendment to ensure specificity and consistency in the framework for action; in particular, with respect to the ILO’s collaboration and coordination with other multilateral institutions.
- 400.** The Government member of Pakistan proposed an alternative subamendment: “for the realization of fundamental principles and rights at work, while taking fully into account the ILO’s constitutional mandate and the 1998 Declaration on Fundamental Principles and Rights at Work and the 2008 Declaration on Social Justice for a Fair Globalization”.
- 401.** The Chairperson inquired whether it was necessary to refer to the Declarations in all the points of the plan of action.
- 402.** The Government member of Pakistan observed that the subamendment aimed to define the basis of relations with other organizations outside the ILO with respect to international labour standards.
- 403.** The Worker Vice-Chairperson feared that this would create more confusion than clarity – the ILO should not act outside its constitutional mandate, which provided the ILO’s legitimacy on the issue of FPRW. He considered it an unnecessary subamendment and proposed either to maintain point 23 in its original form or only to use the first part of the amendment: “for the realization of fundamental principles and rights at work”.

²⁴ Afghanistan, Bahrain, Bangladesh, Brunei Darussalam, Cambodia, China, Fiji, India, Indonesia, Islamic Republic of Iran, Iraq, Jordan, Kiribati, Republic of Korea, Kuwait, Lao People’s Democratic Republic, Lebanon, Malaysia, Republic of Maldives, Mongolia, Myanmar, Nepal, Oman, Pakistan, Papua New Guinea, Philippines, Qatar, Saudi Arabia, Singapore, Solomon Islands, Sri Lanka, Syrian Arab Republic, Thailand, Timor-Leste, United Arab Emirates, Viet Nam and Yemen.

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404. The Employer Vice-Chairperson believed that the amendment and subamendment added conditionality and thereby risked preventing action rather than fostering it. The objectives of partnerships were understood from the outset. He supported the Workers' subamendment.
405. The Government member of Bangladesh stressed that he attached importance to referring to the ILO's constitutional mandate and the 1998 and 2008 Declarations, in addition to the first part of the amendment "for the realization of fundamental principles and rights at work.", which would provide useful guidance to governments and promote more meaningful and effective partnerships. However, he deferred to the Chairperson.
406. The amendment was adopted, as subamended, with the addition in the first sentence after "multilateral system" of "for the realization of fundamental principles and rights at work".
407. The Government member of Bangladesh, on behalf of like-minded countries,²⁵ presented an amendment to point 23(a) to eliminate the text after "at work". He considered the reference to United Nations Offices responsible for promoting human rights unnecessary, confusing and of little value, as the United Nations system as a whole should promote human rights and development, rather than the UN's component parts sometimes overstepping their respective mandates.
408. The Employer Vice-Chairperson considered that the UN Global Compact and the UN "Protect, Respect and Remedy" Framework were particularly useful and supportive in the context of FPRW. He opposed the amendment.
409. The Government member of India proposed an alternative subamendment to refer to "with particular reference to United Nations mechanisms responsible for promoting human rights".
410. The Worker Vice-Chairperson agreed with the Employer Vice-Chairperson, adding that if the text were to mention the UN system in general, this would be vague and fail to identify those UN entities that most contributed to FPRW. He opposed the amendment.
411. The Chairperson suggested a subamendment as follows: "with particular reference to United Nations agencies, funds and programmes promoting human rights", as the advice of the Office was to use that recognized terminology.
412. The amendment as subamended by the Chairperson was adopted.

Point 23(c)

413. The Worker Vice-Chairperson proposed an amendment to the French text, to replace "que le respect des principes et droits fondamentaux au travail figure en meilleure place" with "mieux intégrer le respect des principes et droits fondamentaux au travail" – an editorial issue that had no impact on the English or Spanish versions.

²⁵ Afghanistan, Bahrain, Bangladesh, Brunei Darussalam, Cambodia, China, Fiji, India, Indonesia, Islamic Republic of Iran, Iraq, Jordan, Kiribati, Republic of Korea, Kuwait, Lao People's Democratic Republic, Lebanon, Malaysia, Republic of Maldives, Mongolia, Myanmar, Nepal, Oman, Pakistan, Papua New Guinea, Philippines, Qatar, Saudi Arabia, Singapore, Solomon Islands, Sri Lanka, Syrian Arab Republic, Thailand, Timor-Leste, United Arab Emirates, Viet Nam and Yemen.

414. The amendment was adopted.

415. Point 23 was adopted, as amended.

Point 24

416. The Government member of India, on behalf of a group of like-minded countries,²⁶ withdrew an amendment.

417. Point 24 was adopted.

Point 25

418. The Government member of India, on behalf of a group of like-minded countries,²⁷ proposed an amendment to the chapeau to point 25, to stress that private voluntary initiatives should not undermine or override any country's or government's institutional mechanisms in the exercise of its responsibilities. The purpose was to ensure the legitimacy of ILO standards that were developed through a transparent and tripartite process. Voluntary initiatives could lead to protectionist barriers that went against the ILO mandate, to a linkage between labour standards and trade, and to discussions on issues such as non-standard forms of employment that were not defined in ILO Conventions.

419. The Employer Vice-Chairperson opposed the proposal because the chapeau stated that voluntary initiatives should not undermine the responsibilities of the State.

420. The Worker Vice-Chairperson agreed with the previous speaker that the amendment did not add new information compared to the original text. In terms of the two points for action on how the ILO should react to private voluntary initiatives, there was no need to modify the wording on those types of initiatives and he opposed the amendment.

421. The Government member of India stated that it was important to emphasize that private voluntary initiatives should not override institutional mechanisms.

422. The Government member of Bangladesh understood the comments made by the Employer Vice-Chairperson and the Worker Vice-Chairperson and reiterated that the purpose was to reinforce the points in the chapeau by adding certain elements. Institutional mechanisms were not mentioned in the original text and it was important to highlight that private voluntary initiatives must not undermine or override them.

423. The Worker Vice-Chairperson believed that adding elements to the point might make private voluntary initiatives have greater impact on the ILO; it could be asked to invest more time and effort and get involved in those initiatives, through requests for information, principles and guidelines. That would take the ILO in a different direction than the plan of action before the Committee. Private voluntary initiatives needed to remain private. However, the Workers' group supported adding text to confirm the ILO's leading role in ensuring that FPRW were key components of private voluntary initiatives.

²⁶ Bangladesh, China, Islamic Republic of Iran, Pakistan and Sri Lanka.

²⁷ See footnote 26 above.

424. The Employer Vice-Chairperson reiterated that the chapeau was clear that private voluntary initiatives should not undermine the State's responsibilities, and the statement was broad and encompassing.

425. The Government member of India noted that governments were responsible to the international community. The reason for proposing the amendment was to ensure that delivery mechanisms would stand. It was important to strengthen and take care of institutional mechanisms within countries.

426. The Chairperson confirmed that the debate on the amendment had been a fruitful way to explore diverse views. However, it was not possible to reach full agreement; as there was a clear majority against it, the amendment fell.

427. Point 25 was adopted.

Point 26

428. The Government members of Japan and Pakistan withdrew two amendments.

429. Point 26 was adopted.

Point 27(a)

430. A Government member of India, on behalf of a group of like-minded countries,²⁸ proposed an amendment to add the text "through a tripartite working group" after "at work", to ensure that suggestions and discussions on the plan of action came from all three constituents. This was important because the results had long-term implications at policy level and should not be left to the Office alone. Inputs from governments and all tripartite partners were essential. The proposal was that the plan of action be prepared by a tripartite working group and then submitted to the Governing Body for approval.

431. The Employer Vice-Chairperson opposed this, pointing out that the Governing Body was itself a tripartite working group with its own specific committees. This addressed all the elements the governments expressed concern about.

432. The Worker Vice-Chairperson agreed that the Governing Body was a tripartite, decision-making and institutional body and that the plan of action would be submitted to the Governing Body for examination. He expressed concern that the proposed amendment raised a constitutional issue. In line with the constitutional procedure, a tripartite review of the plan of action would be carried out by the Governing Body.

433. The Government member of Pakistan understood that the Governing Body was a tripartite body, but the amendment sought an opportunity for member States to have an informal consultation with the Office to understand and create awareness regarding action that would be taken to implement FPRW.

434. The Chairperson indicated that, as usual, such informal consultations took place when needed.

²⁸ See footnote 26 above.

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435. The Government member of Bangladesh stated that some reference to consultations should be included in the text. However, as it was not supported by a majority, the amendment fell.
436. Point 27 was adopted, as proposed.
437. Point 28 was adopted, as proposed.
438. The draft conclusions were adopted, as amended.
439. The Chairperson introduced the draft resolution, which was adopted as proposed.

Consideration of the draft report

440. The Committee considered its draft report at its 12th sitting.
441. Introducing the draft report, the Reporter, Ms Vera Albuquerque, Government member of Brazil, acknowledged the Committee's achievements in reaching conclusions that showed the way forward for governments, the social partners and the Office on FPRW. The report would be an important document of reference for the Organization and constituents, providing better understanding of their respective roles in the realization of FPRW. It captured the substance of discussions among over 200 participants from around 100 countries, reflecting areas of agreement and divergence, and constructive ideas for meaningful, effective and achievable steps in a framework for action that would guide the efforts of the Governing Body, the Office and ILO constituents over the 2012–16 period. She thanked the Committee for their unity of purpose, the Chairperson and Vice-Chairpersons for their excellent contributions and stewardship, and the secretariat for its hard work.
442. The Chairperson thanked the Reporter for her careful reading of the report and invited the Committee to adopt the report.

Adoption of the report

443. The Committee unanimously adopted the report, with minor corrections submitted by Committee members to their own statements, as well as the resolution and the conclusions.

Closing remarks

444. The Government member of France, speaking on behalf of the IMEC group, highly appreciated the efforts of the Chairperson and Vice-Chairpersons in ensuring constructive and open discussions on all FPRW topics. His group welcomed the linkage between the 1998 and 2008 Declarations and believed that the framework for action provided orientations that would help the Office to take timely and appropriate action, effectively promoting and implementing FPRW and improving the lives of millions of workers worldwide.
445. The Government member of Denmark, speaking on behalf of the EU Government members, thanked the Worker, Employer and other Government participants for their very constructive interventions and the Office on reaching a successful result. Her group attached great importance to FPRW for all parties as universal values, and to their realization and implementation in 2012–16.

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- 446.** The Government member of Trinidad and Tobago asserted that the Committee had made a constructive, meaningful and effective effort to bring difference to people's lives, and the participants should be proud of having assisted in the process. The Government member of China thanked the Chairperson for his effective conduct of the meeting and the social partners for their spirit of tripartism.
- 447.** The Government member of Zambia, speaking on behalf of the Africa group, appreciated the work of the Office, thanked the Chairperson for his wisdom, the Vice-Chairpersons for their open and constructive approach and all the members of the Committee. He stated that FPRW were of key importance for the continent; the conclusions reflected the views of his group and would be useful in bringing about improvements in their countries.
- 448.** The Government member of Brazil, on behalf of GRULAC, confirmed that his group was fully committed to the promotion and implementation of FPRW and offered the Office assistance in any way needed to ensure that the framework for action was implemented.
- 449.** The Employer Vice-Chairperson expressed his appreciation for the whole process from the preparatory phase before the Committee's discussions to its final outcome. The Committee had re-energized the approach to FPRW. It would have been helpful to have received the report a few hours earlier. He thanked the Workers' group for the spirit in which the Committee's work had been done, the Chairperson for his even-handedness and the secretariat for their diligence. The report was an accurate reflection of the priorities of the respective groups. The conclusions reflected a constructive compromise among the priorities expressed by the Committee's members.
- 450.** The Worker Vice-Chairperson thanked the Chairperson of the Committee for his able stewardship. Governments, employers and workers should use the report as essential reading in order to promote FPRW, and protect workers from anti-union discrimination and uncertainty about their future. The Committee's conclusions proposed a framework for action that the Governing Body and the Office, governments, and employers' and workers' organizations could implement to achieve that objective. The need for cooperation was very great; the ILO and its tripartite structure had great potential to make a crucial contribution to overcome problems in achieving FPRW and advancing the cause of democracy. The common challenge was to make this potential a reality. This required the willingness of everybody to commit to the agreed objectives. He expressed satisfaction at having achieved joint conclusions and reaffirmed his group's commitment to the 1998 Declaration and the Social Justice Declaration. He thanked ILO staff for their hard work, the Governments for their contribution to the discussion and his counterparts on the Employers' bench. He was confident that the conclusions and the framework for action would be constructively addressed at the next Governing Body.
- 451.** The representative of the Secretary-General believed that the Committee had been exemplary on issues that were complex, difficult and essential, demonstrating that the tripartite spirit helped overcome problems and find solutions. It had the benefit of the very constructive approach of the Chairperson, Vice-Chairpersons and spokespersons of the government groups. He took satisfaction in two respects. The first was that the report, resolution and conclusions significantly contributed to the ILO's work to promote FPRW in general and, secondly, the discussion had brought the recurrent item to serve its intended purpose. The ILO would draw good lessons from this exercise. He took note of the point of increasing the time available for the groups to consider the draft report before adoption – raised by the Employer Vice-Chairperson; the secretariat would keep it in mind for the future. The effectiveness of the work accomplished, however, depended on the follow-up and focus was required on the response as the Office moved forward. He thanked all speakers for their clarity and ideas, as well as the excellent team of the Committee secretariat.

452. The Chairperson expressed gratitude for the work done by the Committee. The Worker and Employer Vice-Chairpersons succeeded in finding common ground. He also thanked the Government members and their groups for their constructive approach. He remarked that the discussions had provided a great opportunity to exchange views and to work through social dialogue. The result was greatly appreciated, and he looked forward to seeing progress on the framework for action. He concluded by noting his personal conviction that the conclusions would help make the Organization more effective in implementing FPRW.

Geneva, 11 June 2012

(Signed) G. Vines
Chairperson

V. Albuquerque
Reporter

Appendix

Fate of amendments to draft conclusions

1. The following amendments were adopted: D.49, D.2, D.23, D.53, D.27, D.5, D.48, D.7, D.8, D.3, D.46, D.66, D.45.
2. The following amendments were adopted, as subamended: D.64, D.22, D.43, D.70, D.68, D.24, D.30, D.71, D.31, D.16, D.17, D.47, D.67, D.60, D.61, D.25, D.20, D.83, D.4, D.10, D.44, D.81, D.82.
3. The following amendments fell: D.9, D.51, D.26, D.52, D.28, D.65, D.11, D.12, D.54, D.29, D.72, D.56, D.57, D.40, D.59, D.14, D.13, D.34, D.36.
4. The following amendments were withdrawn: D.50, D.21, D.42, D.41, D.55, D.18, D.58, D.73, D.19, D.32, D.74, D.39, D.38, D.6, D.75, D.76, D.77, D.33, D.78, D.62, D.63, D.69, D.37, D.35, D.15, D.79, D.80.

Resolution concerning the recurrent discussion on Fundamental Principles and Rights at Work

The General Conference of the International Labour Organization, meeting at its 101st Session, 2012,

Having undertaken a recurrent discussion on fundamental principles and rights at work in accordance with the Follow-up to the ILO Declaration on Fundamental Principles and Rights at Work and the ILO Declaration on Social Justice for a Fair Globalization, to consider how the Organization may respond more effectively to the realities and needs of its Members through coordinated use of all its means of action,

1. Adopts the following conclusions, which contain a framework for action for the effective and universal respect, promotion and realization of fundamental principles and rights at work;

2. Invites the Governing Body of the International Labour Office to give due consideration to the conclusions and to guide the International Labour Office in giving effect to them; and

3. Requests the Director-General to:

- (a) prepare a plan of action incorporating the priorities in the framework for action, for consideration of the Governing Body at its 316th Session in November 2012;
- (b) communicate the conclusions to relevant international and regional organizations for their attention;
- (c) take into account the conclusions when preparing future programme and budget proposals and facilitating extra-budgetary activities; and
- (d) keep the Governing Body informed of implementation.

Conclusions

Guiding principles and context

1. The adoption in 1998 of the Declaration on Fundamental Principles and Rights at Work marked an historic advance in the ILO's mandate for the achievement of social justice as a prerequisite for universal and lasting peace. It gives explicit recognition of the obligation of all ILO Members to respect, to promote and to realize fundamental principles and rights at work, and the corresponding obligation on the ILO to assist its Members in their efforts by the utilization of all of its means of action. The Declaration has mobilized national and international actors for the realization of fundamental principles and rights at work and substantial progress has been achieved. Yet much remains to be done; millions continue to be denied their basic rights at work.
2. Shortly before a global financial and economic crisis broke and threatened to slow or reverse progress, the ILO adopted its 2008 Declaration on Social Justice for a Fair Globalization. That Declaration reaffirms the ILO values and mission in the context of globalization, reasserts the centrality of fundamental principles and rights at work to the ILO Decent Work Agenda as a whole, and opens new avenues to optimize the ILO's contribution to their achievement.
3. In response to the crisis and its social consequences, by adopting the Global Jobs Pact, the 2009 Conference stressed, among other things, the importance of the promotion of fundamental principles and rights at work and constructive social dialogue in times of increased social tension.
4. At this time in 2012, when global economic growth continues to be threatened by financial and economic instability, the ILO and its member States reinforce their resolve to work towards universal realization of fundamental principles and rights at work as a necessary, urgent and achievable goal to advance development and social justice.
5. In this context, the Conference reaffirms:
 - (a) the universal and immutable nature of fundamental principles and rights at work;
 - (b) their particular significance both as human rights and enabling conditions for the achievement of the other ILO strategic objectives, and for the creation of decent jobs through assuring the links between economic growth and sustainable enterprises and social progress; freedom of association and the effective recognition of the right to collective bargaining are particularly important in this respect; and
 - (c) the inseparable, interrelated and mutually reinforcing character of each category of fundamental principles and rights, and the consequent need for an integrated approach to their realization.
6. The full realization of fundamental principles and rights at work will be advanced by an environment of respect for all human rights and democratic freedoms, and by:
 - (a) respect for the rule of law, an independent judiciary, transparent and effective governance, functioning public institutions, and an absence of corruption;
 - (b) universally accessible systems of social protection and quality education; and
 - (c) functioning and effective social dialogue.

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7. This framework for action emanating from the recurrent discussion on fundamental principles and rights at work is based on the obligation of all member States to respect, promote, and realize fundamental principles and rights at work, consistent with the 1998 Declaration. The ILO shall support constituents to meet this obligation based on their established and expressed needs, including in this recurrent discussion.

Framework for action for the effective and universal respect, promotion and realization of fundamental principles and rights at work 2012–16

I. Fundamental principles and rights at work are universally respected, promoted and realized

8. While important progress has been made since 1998 towards the universal application of fundamental principles and rights at work, including the universal ratification of the eight fundamental Conventions, significant gaps remain. Steps should be taken to accelerate the pace towards the effective and universal realization of fundamental principles and rights at work, including through the ratification and the application of the fundamental Conventions.
9. In terms of overarching priorities, the ILO should actively, and as a matter of urgency:
- (a) launch a widespread information and awareness-raising campaign on all fundamental principles and rights at work and in this context assist member States in their efforts to raise awareness at the national level of the importance and benefits of the full implementation of the fundamental principles and rights at work;
 - (b) evaluate progress on the application of fundamental principles and rights at work through the collection, consolidation and provision of systematic, accurate, up-to-date, transparent and user-friendly information;
 - (c) give new impetus through technical cooperation and other means to the campaign for the universal ratification of the eight fundamental Conventions, taking into account the low rates of ratification 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); and
 - (d) provide needed technical assistance to both ratifying and non-ratifying member States on the basis of an analysis of the existing difficulties to progress towards the ratification of the fundamental Conventions and/or their effective implementation, including through Decent Work Country Programmes.

II. Fundamental principles and rights at work are accessible to all

10. Efforts are needed to ensure that the rights of all workers are adequately protected by national legislation; they have access to expeditious fair and unbiased enforcement mechanisms; and they can effectively exercise freedom of association and collective bargaining. Efforts are also required to support the organization of the groups and

categories referred to below and the creation of processes of collective bargaining and social dialogue where their voices can be heard.

11. While violations of fundamental principles and rights at work are not limited to any specific economic sector, the majority affect adults and children in the informal economy. In addition, in many countries, certain population groups, such as migrant workers, ethnic minorities, tribal and indigenous peoples, and other groups which suffer social exclusion, and categories of workers such as rural and agricultural workers, domestic workers and workers in export processing sectors, are more exposed to violations of fundamental principles and rights at work than others.
12. Furthermore, the increase in non-standard forms of employment, in cases in which the national legislation does not adequately regulate them, raises questions concerning the full exercise of fundamental principles and rights at work. In this context, young workers and women workers are particularly affected.
13. Regarding the abovementioned groups and categories of workers, the ILO should:
 - (a) strengthen its focus on them in its technical cooperation and research activities on fundamental principles and rights at work;
 - (b) organize a meeting of experts, undertake research and support national studies on the possible positive and negative impacts of non-standard forms of employment on fundamental principles and rights at work and identify and share best practices on their regulation;
 - (c) organize a meeting of experts, undertake research and support national studies on advancing fundamental principles and rights at work in the informal economy; and
 - (d) ensure an integrated and coherent approach between its action on fundamental principles and rights at work and technical cooperation activities relating to the other three strategic objectives of employment, social protection and social dialogue.

III. Fundamental principles and rights at work are enforced at the national level

14. The existence of effective institutions and mechanisms of enforcement is an essential precondition for the full implementation of all four categories of fundamental principles and rights at work. However, in many member States, this remains a challenge.
15. Governments should, in consultation with employers' and workers' organizations, consider the following:
 - (a) ensuring the existence and effective functioning of institutions for enforcement and compliance, including labour inspection and expeditious, fair and unbiased mechanisms to resolve disputes with respect to the implementation of fundamental principles and rights at work;
 - (b) developing and strengthening prevention measures, including awareness-raising campaigns, as part of comprehensive strategies to implement the fundamental principles and rights at work;
 - (c) with respect to forced labour and child labour, developing a complementary and appropriate approach between criminal justice and labour institutions and

strengthening victim protection including through effective monitoring of the incidence of child and forced labour;

- (d) undertaking special efforts to tackle all discrimination in respect of employment and occupation and promoting the equality of opportunity and treatment between women and men to reduce the pay differential between them and to realize the principle of equal remuneration for work of equal value as part of the overall promotion of gender equality; and
- (e) means to respect, promote and realize freedom of association and the effective recognition of the right to collective bargaining.

16. Employers' and workers' organizations:

- (a) should commit to respect fundamental principles and rights at work, including carrying out advocacy and awareness-raising campaigns among their members; and
- (b) may advise, through social dialogue, the priorities and activities of independent labour inspection and other enforcement institutions with respect to fundamental principles and rights at work.

17. Bearing in mind the 2011 International Labour Conference conclusions on labour administration and labour inspection, the ILO should:

- (a) provide assistance to strengthen the capacity of the different national courts and institutions involved in the enforcement of national laws and other measures related to fundamental principles and rights at work, including an independent judiciary;
- (b) share best practices on implementation strategies as an integral part of ILO technical cooperation activities on fundamental principles and rights at work; and
- (c) provide technical support to legislative and institutional reforms related to the enforcement of fundamental principles and rights at work.

IV. Mobilizing ILO means of action on fundamental principles and rights at work

18. In giving full effect to the 2008 Declaration and the 1998 Declaration, the Organization should mobilize and coordinate all its means of action to promote the fundamental principles and rights at work on the ground and respond to the established and expressed needs and responsibilities of constituents. This should be supported through Office-wide coherence and coordination. ILO action on fundamental principles and rights at work should take into account the interlinkages between the four categories of principles and rights and the other three strategic objectives. It should also be ensured that fundamental principles and rights at work are mainstreamed in the activities relating to the other three strategic objectives.

Effective planning and resource allocation

19. The ILO should:

- (a) operationalize fundamental principles and rights at work as enabling conditions for the achievement of the other three strategic objectives in its strategic and programming framework;
- (b) ensure that adequate resources are allocated to the promotion of each of the four categories of fundamental principles and rights at work, to the effective and efficient functioning of the ILO supervisory bodies and the Office as their secretariat and the implementation of these conclusions;
- (c) launch a strategy to raise extra-budgetary resources for the four categories of fundamental principles and rights at work with a view to supporting the needs of the tripartite constituents; and
- (d) carry out an in-depth and detailed evaluation of ILO action for all fundamental principles and rights at work to be completed by the end of 2015.

Strengthened technical cooperation and capacity building

20. The ILO should:

- (a) integrate all the four categories of fundamental principles and rights at work in Decent Work Country Programmes through ensuring that they are systematically considered for inclusion in the design stage of Decent Work Country Programmes, in consultation with the constituents;
- (b) work to strengthen the capacities of all constituents, at all levels, including training for employers' and workers' organizations to maximize their contribution to the universal implementation of fundamental principles and rights at work, and in particular on freedom of association and collective bargaining and on the prevention of human trafficking for labour exploitation; and
- (c) further expand training of law enforcement institutions, courts and the judiciary on fundamental principles and rights at work.

Enhanced research capacity

21. The ILO should, consistent with the Knowledge Strategy of the Organization:

- (a) develop and maintain a comprehensive and up-to-date knowledge base on each category of the fundamental principles and rights at work by:
 - (i) enhancing research on effective policies on forced and child labour;
 - (ii) further strengthening collection and analysis of statistics on forced and child labour;
 - (iii) making proposals for the development of a methodology for estimating the incidence of discrimination in respect of employment and occupation to monitor and evaluate developments in this respect; and

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- (iv) building a consolidated knowledge base on freedom of association and collective bargaining;
 - (b) carry out evidence-based research on the socio-economic impact of all fundamental principles and rights at work; and
 - (c) provide assistance to member States in their efforts to improve national data collection on fundamental principles and rights at work.

Effective standards-related action

22. The ILO should:

- (a) promote the ratification and application of the relevant ILO instruments, including the ILO governance Conventions, in order to contribute to the full implementation of the fundamental principles and rights at work;
- (b) pursue the synergies between the follow-up of the 1998 Declaration and the work of the ILO supervisory bodies on the fundamental Conventions and technical cooperation; and
- (c) conduct a detailed analysis, including through the possible convening of meetings of experts to identify gaps in existing coverage of ILO standards with a view to determining whether there is a need for standard setting to:
 - (i) complement the ILO's forced labour Conventions to address prevention and victim protection, including compensation; and
 - (ii) address human trafficking for labour exploitation.

V. Taking into account other initiatives to promote fundamental principles and rights at work

23. The increased interest in the fundamental principles and rights at work has been accompanied more recently by their growing integration into a wide range of initiatives outside the ILO. These developments constitute an opportunity for the ILO to assert its unique and specialized role as the source of international labour standards and ensure the fulfilment of its mandate regarding the application of fundamental principles and rights at work. The ILO should assert its legitimacy and authority derived from its unique tripartite structure and governance. In this context, the ILO should step up its monitoring of developments regarding the extent to which fundamental principles and rights at work are addressed in other international initiatives outside the ILO.

24. In addition, the governments of ILO member States are encouraged to take steps to ensure coordination and consistency in their positions in the ILO and in other forums in respect of fundamental principles and rights at work. These efforts could include, where appropriate, mechanisms for effective consultation among concerned ministries and with social partners.

25. The ILO should, upon request, facilitate cooperation between member States and other international organizations in support of national measures to realize fundamental principles and rights at work.

26. Regarding partnerships with international and regional organizations with mandates in closely related fields, the ILO should encourage policy coherence, international coordination and collaboration within the multilateral system for the realization of fundamental principles and rights at work, including by:

- (a) deepening and extending partnerships within the United Nations system on all the four categories of fundamental principles and rights at work with particular reference to United Nations agencies, funds and programmes promoting human rights;
- (b) taking active steps to strengthen the integration of fundamental principles and rights at work in the United Nations Development Assistance Frameworks in coordination with Decent Work Country Programmes, where appropriate;
- (c) making efforts to further integrate respect for fundamental principles and rights at work into the economic, financial and development agendas of the multilateral system based on their particular significance as rights and enabling conditions and the related need to ensure that economic growth and respect for fundamental principles and rights at work go hand in hand; and
- (d) associating more closely with relevant multilateral organizations including inviting their participation in ILO forums, in order to better take account of the impact of their activities on the implementation of fundamental principles and rights at work and to promote a better coordination between their programmes and activities and those of the ILO.

27. With respect to trade arrangements:

- (a) the ILO's position has been clearly defined by:
 - (i) the 1998 Declaration on Fundamental Principles and Rights at Work, which stresses that labour standards should not be used for protectionist trade purposes, and that nothing in this Declaration and its follow-up shall be invoked or otherwise used for such purposes; in addition, the comparative advantage of any country should in no way be called into question by this Declaration and its follow-up (paragraph 5); and
 - (ii) the 2008 Declaration on Social Justice for a Fair Globalization, which states that the violation of fundamental principles and rights at work cannot be invoked or otherwise used as a legitimate comparative advantage and that labour standards should not be used for protectionist trade purposes (Part I(A)(iv));
- (b) in this framework, the ILO is encouraged to strengthen its analytical and research work and, upon request, provide assistance to Members who wish to promote strategic objectives jointly within the framework of bilateral or multilateral agreements, subject to their compatibility with ILO obligations.

28. With respect to private voluntary initiatives, with the understanding that these initiatives should not undermine the exercise by the state of its responsibilities, the ILO should:

- (a) in light of the recent developments in the United Nations on business and human rights, pursue and strengthen activities, including by providing information for employers and workers' organizations on the content and meaning of fundamental principles and rights at work, making full use of the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy (1977) as revised and its follow-up and with close involvement of employers and workers; and

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- (b) improve activities regarding public–private partnerships, in line with the ILO strategy on public–private partnerships, and assess the extent to which they are contributing to the realization of fundamental principles and rights at work.

Follow-up

- 29.** The Conference invites the Governing Body to guide the Office in giving effect in a timely manner to these conclusions, including to the framework for action set out therein. This should encompass a review of the existing action plans adopted in the context of the follow-up to the 1998 Declaration, taking into account decisions taken in other forums with particular reference to the Roadmap for Achieving the Elimination of the Worst Forms of Child Labour by 2016, and make any adjustments as appropriate.
- 30.** The Conference requests the Director-General to:
 - (a) incorporate the priorities laid out in this framework in a plan of action on fundamental principles and rights at work for the consideration of the Governing Body at its 316th Session in November 2012; and
 - (b) take into account these conclusions when preparing future programme and budget proposals and facilitating extra-budgetary activities, as well as to report on implementation to the Governing Body.
- 31.** The plan of action will provide the basis on which the Conference in 2016 will assess the results of the actions taken by the Organization, with due regard to effectiveness, accountability, transparency and efficiency.

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