



## Third sitting

Wednesday, 4 June 2014, 10.15 a.m.

*President: Mr Funes de Rioja*

### REPORTS OF THE CHAIRPERSON OF THE GOVERNING BODY AND OF THE DIRECTOR-GENERAL: DISCUSSION

*Original Spanish: The PRESIDENT*

It is an honour to declare open the third sitting of this 103rd Session of the International Labour Conference and I do so on behalf of the Officers of the Conference and the Director-General of this Organization, Mr Guy Ryder.

Today we shall commence a general discussion on the Reports of the Chairperson of the Governing Body and of the Director-General. Both Reports have appendices. The Appendix to the Report of the Director-General is entitled *The situation of workers in the occupied Arab territories* and the appendix to the Report of the Chairperson of the Governing Body contains the Report of the Director-General on *ILO programme implementation 2012–13*.

*(The speaker continues in English.)*

Before starting the discussion, I should like to make the following statement on behalf of all the Officers of the Conference, to remind you of the principles by which we shall be guided in our debate. These principles were established by the Working Party of the Governing Body of the International Labour Conference on the programme and structure of the ILO, approved by the Governing Body and communicated to the Conference in 1967. They are set out in paragraphs 54–58 of the fourth report of the Working Party. The Officers of the Conference wish to draw the close attention of all delegates to the contents of paragraph 58, which reads as follows: “In periods of acute political tension the ILO has a twofold responsibility – to uphold the values of human freedom and dignity enshrined in its Constitution, and to circumscribe rather than extend the area of international tension by ensuring the fullest possible degree of continued cooperation in pursuit of the objectives of the ILO. Every delegate to the Conference should be mindful of these considerations and the President has an obligation to ensure that the Conference does likewise.”

The debates of the International Labour Conference must not encroach on what is being discussed by the United Nations Security Council and the General Assembly of the United Nations in New York, which have responsibility for political decisions under the Charter of the United Nations.

I should like to ask all delegates to comply with these principles. The Officers of the Conference are committed to ensuring that they are upheld. I rely on you all to conduct our discussions with both the openness and the dignity that are appropriate to the highest international body in the realm of the social and labour relations market.

Freedom of expression is a vital feature of the International Labour Organization. To exercise this right in a spirit of mutual respect, it is essential that all delegates use parliamentary language, respect the accepted procedure, refer only to the items under discussion and avoid raising any question alien to these matters. This discipline is necessary if we want our work to be effective and successful.

Please note that the duration of speeches is limited by the Standing Orders of the International Labour Conference to five minutes only, corresponding to approximately three typewritten and double-spaced pages. This time limit will be strictly applied. It is therefore strongly recommended that delegates reduce courtesies to a minimum. For your convenience, the lectern is equipped with a timing device which allows speakers to see how much time they have left. A tone sounds when the five minutes is up.

Every delegate will have the right of reply if he or she feels there is a need to respond in the event that his or her government has been challenged. In such cases, delegates must inform the President of the sitting before that sitting finishes that they wish to exercise the right to reply. Please make such requests by coming up to the podium and informing the Clerk of the Conference, Mr Ramos. The Clerk will transmit the request to the President who will agree with the delegation concerned on a time at which the reply may be made. The reply should refer only to the point under debate. It should not exceed two minutes and it should be delivered in correct parliamentary language. Please keep in mind that it is not practice in our Organization to allow replies to a reply.

May I take it that these arrangements are agreeable to the Conference?

*(It is so decided.)*

STATEMENTS BY THE CHAIRPERSONS OF THE  
EMPLOYERS' AND WORKERS' GROUPS  
OF THE CONFERENCE

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Mr RØNNEST (*Employer, Denmark, Chairperson of the Employers' group*)

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On behalf of the Employers' group, it gives me great pleasure to turn my attention to the Reports that have been presented by the Director-General.

We welcome his Report on migration and, while we hope that the discussion on it will be helpful in shaping an ILO response, we also look forward to a substantive discussion in the ILO Governing Body, both in terms of policy-setting, and also operationally, as migration will feature strongly in the work of the ILO over the next biennium.

I think it is accepted today that migration, both permanent and temporary, is a key reality and requirement for economic growth and development for both sending and receiving countries. The accumulated value of remittances sent home by migrants from abroad is measured in the tens of billions of dollars and represents a major source of investment in the economies of sending countries.

Globalization and demographic trends further reinforce the need for mobility. For many of us, our workforces of tomorrow will be supported by migrants from elsewhere. Migration, however, entails different perceptions and experiences. Migration is, at the end of the day, a very personal experience. We therefore need to avoid generalizations or the belief that a single approach will fit all circumstances.

I agree with the Director-General that we need to avoid viewing migration as a simple panacea. Job shortages at home should not simply be addressed by sending the excess labour abroad. The ILO Decent Work Country Programme should already be working to improve employment opportunities in migrants' home countries, especially by improving the environment for business creation.

There is a dark side to migration, however, and this unfortunately often fills our television screens. We all agree that migration should be regular and that actions are needed to prevent the irregular, undocumented movement of workers, but in reality this effectively requires the amelioration of the often terrible realities that these people are fleeing. The ILO certainly cannot do this alone. Any ILO engagement therefore needs to find its place within the wider migration debate. Migration for work is an important aspect of what we are seeing but it is not its only feature and labour migration cannot be viewed, or even addressed, wholly in isolation from these wider realities.

In his Report, the Director-General also reflects on the role of private employment agencies and, here again, we need to avoid generalizations. As Employers, we support the Private Employment Agencies Convention, 1997 (No. 181), and urge governments to ratify it and implement its provisions. It is only through such steps, supported by effective enforcement, that bad practices and the abuse that such practices inflict on often unsuspecting migrant workers can be eliminated. Good employers need to be able to rely on good employment agencies. Those employers who choose other agents or practices should not be able to escape the consequences of that choice. That is why the International Organisation of Employers (IOE) is now working

with the International Organization for Migration (IOM) on a project focusing on ethical recruitment practices.

The problem that we face with making this consolidated address to the plenary on behalf of the Employers' group each year is the mismatch between the time available and the breadth of issues raised in the Report. I cannot do proper justice to the many items raised here but I trust that, in the Governing Body, there will be an opportunity for more extensive contributions.

The situation of workers and employers in the occupied Arab territories remains miserable. The solutions required are beyond our reach as individuals but, as the ILO, we must raise our voices on the need for an early restoration of peace in the region. Without that, at each session, the Conference will continue to receive reports of further deterioration in the economy and lives of people. We must find a way to reverse this. We commend the ILO on its effort to continue to support activities in the territories and, in particular, the strengthening of constituent capacities.

Finally, allow me to say a few words on the Director-General's Report on implementation.

We had the opportunity to comment on this at the Governing Body. The ILO needs to focus its work better as resources remain scarce. It needs to improve its fact-based knowledge platform, improve the skills mix within the Office and apply the learning that it gains from papers like this Report. We also remain concerned that the work of the Office under indicator 3.1, on ILO support for efforts by member States to improve the enabling environment for enterprises, is still a long way short of attainment. We are left with the perception that what started out as a firm commitment from the ILO is now losing momentum. This must not be the case and we would expect more resources and technical attention to be paid to this issue, so that its targets can be achieved.

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Mr CORTEBEECK (*Worker, Belgium, Chairperson of the Workers' group*)

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There are around 232 million migrants in the world today. A significant proportion of these are young people, and a growing number – 48 per cent – are women. Migration affects every region of the world, and many countries are now simultaneously countries of origin, destination and transit. South–South migration is as important a phenomenon as South–North migration. Since the global economic and jobs crises, we are also seeing an emerging trend of North–South migration.

The Director-General's Report correctly identifies the main driver of migration as being decent work deficits arising from unequal development between countries and regions. Ninety per cent of the world's migrants migrate in search of work.

This search for better work opportunities is all too often made in the most desperate of circumstances. Many migrants fall victim to traffickers and smugglers. For too many, their journey ends in tragedy and death. Ever more restrictive migration policies play directly into the hands of traffickers and smugglers.

We concur that the first policy response to achieving a fair migration must be to promote decent work opportunities in countries where they are currently inadequate. Migration cannot be seen as a solution to the failure to create decent jobs. Neither should

the hard-earned private remittances that migrant workers send back to their families be seen as a form of “development aid” to be taken into consideration by governments in formulating their national development plans. The post-2015 discussions present an opportunity to refocus global efforts towards inclusive and sustained job-intensive economic growth. In this respect, stand-alone goals on full and decent employment and social protection are crucial.

Ensuring that migrant workers have access to decent work in countries of destination is of equal importance. Migrants cannot be seen as a ready pool of labour for jobs that local workers are no longer willing to perform. Nor can we turn a blind eye to the over-representation of migrant workers in informal and precarious jobs, outside the protection of labour standards.

Recruitment conditions play a critical role in ensuring sound migration and employment outcomes for migrant workers. Labour recruiters, brokers and middlemen are responsible for a wide range of human rights violations.

Various self-regulation schemes have not worked. The Workers’ group fears that the voluntary certification scheme launched earlier this year by the IOM and the IOE may be another such initiative, one that is well-intentioned but doomed to failure. Binding legal frameworks, based on United Nations (UN) and ILO Conventions, are necessary for the regulation and monitoring of the activities of private cross-border recruitment agencies. Measures could include obligatory licensing mechanisms subject to tripartite review and the disclosure of abuses. No fees should be charged to workers. Effective complaints mechanisms and remedies for abusive treatment should be established. Public authorities in countries of origin and labour inspection systems in countries of destination can also play a vital role in the prevention of abuses by private recruitment agencies. The Fair Recruitment Initiative, launched by the ILO in order to establish directives, is a highly important, urgent undertaking.

The protection of the human rights – including the trade union rights – of migrant workers should be at the front and centre of migration policies.

We, the trade unions, clearly have a role to play in organizing migrant workers and defending their rights at work. To do this to the best of our ability, we need a conducive environment, free from obstacles to freedom of association and the right to collective bargaining.

The UN International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, together with the ILO’s Migration for Employment Convention (Revised), 1949 (No. 97), the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), the Domestic Workers Convention, 2011 (No. 189), and the eight core Conventions, and the UN Convention on the Elimination of All Forms of Discrimination against Women, particularly its general recommendation No. 26 on women migrant workers, provide the most comprehensive protection framework for all migrant workers, regardless of their status.

The Director-General’s Report points out that the two ILO migration Conventions remain poorly ratified: 49 ratifications for Convention No. 97, and 23 ratifications for Convention No. 143. This is clearly a situation that needs to be addressed. How-

ever, the Workers’ group would caution against rushing to conclusions and implementing inappropriate solutions. Rather, the questions need to be asked: has the Office done enough to promote ratification? Have we, the trade unions, made this a sufficient priority? Are there genuine obstacles to ratification that merit being addressed through ILO technical assistance? Or is there confusion and misunderstanding over what the Conventions require?

Ratification rates for Convention No. 189 – 14 in three years – and the number of positive labour law reforms at the national level that followed the adoption of the Convention show the type of progress that can be made when a ratification campaign is well planned, has a strategic focus and is targeted, including training, education, technical assistance, the provision of materials and the engagement of the social partners, as well as of governments.

The ILO needs to adopt a holistic and rigorous approach, working with other UN rights-based agencies and treaty bodies, to the promotion of the UN and ILO Conventions as the foundation for gender-sensitive, rights-based migration policies on the basis of equality and non-discrimination. The ILO must also play an active role in identifying gaps in legislation and helping governments develop policies and legislation to protect the rights of migrant workers, including through the promotion of the ILO Multilateral Framework on Labour Migration and the relevant ILO standards and by including a rights-based approach to migration in Decent Work Country Programmes.

To address the complexities and policy challenges of modern migration, a step change in the global governance system is necessary. Current international and regional cooperation on migration mostly takes place through informal networks and consultative processes with no monitoring system, no genuine participation of the social partners and no reference to the international normative framework. The Global Forum on Migration and Development (GFMD) is the most well-known of these settings. The concerns of the Workers’ group over the operation of the GFMD relate to its prioritization of the economic development dimensions of migration over the rights dimension, its emphasis on security and border control, and its promotion of “circular” migration schemes, which can have extremely negative consequences in terms of social and economic rights, the right to family life and protection from exploitation. Our concerns are shared by the UN Special Rapporteur on the Human Rights of Migrants.

The ILO, with its constitutional mandate to protect “the interests of workers when employed in countries other than their own”, its standards, its expertise in all aspects of labour issues and its tripartite constituency, does have a unique and crucial role to play in the global debate.

We have called on the ILO to promote social dialogue and engagement with its constituents on migration policies and debates at the national, regional and global levels. In informal forums such as the GFMD, the ILO should encourage greater participation of its tripartite constituents, for example, through tripartite delegations with the involvement of the social partners.

The ILO should seek to promote the full participation of labour ministries and the social partners in developing and implementing bilateral agreements to ensure consistency with standards and migrants’

rights throughout the migration process, including fair recruitment practices and equal conditions of work. Regional and international social dialogue should address issues related to equal treatment and equal opportunity, free circulation, the portability of social security and the recognition of skills.

The Workers' group also supports the establishment of a regular tripartite forum on labour migration, which would increase the visibility of the ILO and its constituents and make it possible to address the current migration challenges in a tripartite manner.

A strong institutional framework is required to deliver a rights-based approach to the global governance of migration, and to drive forward the declaration unanimously adopted by member States at the 2013 UN High-level Dialogue on International Migration and Development. This is a declaration that calls for the respect of human rights and international labour standards, reiterates the commitment to fight human trafficking and strongly condemns manifestations of racism and intolerance. We support the recommendation of the Office of the High Commissioner for Human Rights concerning the establishment of a UN standing panel on migration

and human rights. Such a panel would enable systematic interaction between all relevant stakeholders, ensuring coherence and consistency, and work in this regard can be taken forward by the ILO during its stewardship of the Global Migration Group.

I would like to close by drawing attention to the issue of the public perception of migrant workers and to the rising tide of racism and xenophobia. We all have a part to play in dampening racism and xenophobia: trade unions, by recruiting and organizing migrant workers and educating our membership, as well as our communities; employers, by guaranteeing equal treatment for migrant workers; and governments, by staying away from inflammatory rhetoric and the scapegoating of migrants, and instead promoting more actively the many positive contributions made by migrants to our social, economic and cultural well-being.

The Tripartite Technical Meeting on Labour Migration held in November 2013 provided important guidance on what the ILO should do in relation to migration in the future. The Office should now take the necessary steps to ensure that the conclusions of that meeting are realized.

## Fourth sitting

Wednesday, 4 June 2014, 3.15 p.m.

*President: Mr Funes de Rioja*

### REPORT OF THE SELECTION COMMITTEE: PRESENTATION AND NOTING

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The PRESIDENT

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I draw your attention to the report of the Selection Committee. As you will recall, the Selection Committee met last Wednesday and took a series of administrative decisions regarding the Conference. These decisions are set out in its report, which has been published as *Provisional Record* No. 3. I have the pleasure to give the floor to the Chairperson of the Selection Committee, His Excellency Ambassador Sukayri of the Hashemite Kingdom of Jordan, to present the report.

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Mr SUKAYRI (*Chairperson of the Selection Committee*)

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It is my honour to present the report of the Selection Committee to the Conference.

Under the Standing Orders of the Conference, the Selection Committee can take decisions on questions of a routine nature, such as fixing the time and agenda of plenary sittings, which do not need to be endorsed by the Conference. Its duty is to take decisions to ensure that the Conference runs smoothly. The fact that the Conference is indeed running smoothly shows that the Committee fulfils its purpose well.

The Selection Committee met briefly on the opening day of the session, last Wednesday, and went about its business in its usual efficient manner. It decided that the plenary discussion of the Reports of the Chairperson of the Governing Body and of the Director-General would begin today, and that the list of speakers in plenary would be closed at 6 p.m. this evening. It approved a non-binding plan of work for the committees, to allow them to complete their work in good conditions and to submit their reports to plenary on Tuesday, Wednesday and Thursday of next week. The plan of work is set out in Appendix I of the report.

The Selection Committee took note of the report of the Chairperson of the Special Tripartite Committee established under Article XIII of the Maritime Labour Convention, 2006 (MLC, 2006), which is set out in *Provisional Record* No. 2. This report transmits amendments to the Code of the MLC, 2006, to the Conference for approval. The Selection

Committee decided that the report should be considered by the Conference on Tuesday, 10 June, and that the vote on the approval of the amendments to the Code would be held on Wednesday, 11 June.

The Committee, as in previous years, confirmed a number of principles to facilitate the work of the Conference. It placed particular emphasis on the need for careful time management and punctuality, especially in view of the shorter format that is to be piloted by the Conference in 2015.

The Selection Committee invited a number of international non-governmental organizations to be represented as observers in the committees dealing with items on the agenda in which they had expressed a particular interest. The lists of these organizations, broken down by the committees that they wish to attend, are given in section 9 of the report.

In accordance with article 6, paragraph 1, of the Standing Orders and past practice, the Committee decided on the composition of the Conference Drafting Committee. Lastly, it delegated authority to its Officers to arrange the programme of the Conference and fix the time and agenda of plenary sittings, as well as to decide on any non-controversial issues of a routine nature to smooth the running of the Conference. I and my fellow Officers, Mr Hiro Matsui for the Employers and Mr Luc Cortebeek for the Workers, have met and will continue to meet regularly throughout the Conference to deal with such routine questions.

I wish to thank Mr Matsui and Mr Cortebeek for their excellent collaboration and support, and I am equally grateful to the Office, particularly with regard to the efforts of Mr Christophe Perrin, Director of Conference Secretariat Services, his assistant, Ms Irène Pralong, and his secretary, Ms Isabelle Guy.

With that, I submit the report of the Selection Committee to the Conference.

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The PRESIDENT

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May I take it that the Conference has noted the information contained in the report of the Selection Committee?

*(The report is noted.)*

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