



Fourteenth Sitting

Thursday, 12 June 2014, 10.10 a.m.

President: Mr Funes de Rioja

REPORT OF THE COMMITTEE ON THE APPLICATION OF STANDARDS: SUBMISSION, DISCUSSION AND APPROVAL

The PRESIDENT

Before examining the report of the Committee on the Application of Standards, I would like to remind delegates that today, Thursday, 12 June, is the World Day Against Child Labour. I know that, for reasons of its programme, the Conference marked this day on 10 June this year. However, I wanted to inform participants that today, in more than 45 countries, the ILO, in cooperation with the tripartite constituents and partners in the worldwide movement, will be staging activities to highlight this year's theme: "Extend social protection: Combat child labour!" In this connection, I am particularly pleased to congratulate the Government of my own country, the Republic of Argentina, on its decision to host the Fourth Global Conference on Child Labour in 2017. On behalf of myself and my Government, I invite you all to attend.

We now turn to the next item of business before us, which is the submission, discussion and approval of the report of the Committee on the Application of Standards. This report is published in *Provisional Record* No. 13, Parts One and Two.

I invite the Officers of the Committee to come up to the podium. They are: the Chairperson, Ms Gaviaria; the Employer spokesperson, Mr Rønne, Employer, Denmark, replacing the Employer Vice-Chairperson, Ms Regenbogen, who is unable to attend; the Worker Vice-Chairperson, Mr Leemans; and the Report of the Committee, Ms Mulindeti.

I call on Ms Mulindeti, Reporter of the Committee, to present the report.

Ms MULINDETI (*Reporter for the Committee on the Application of Standards*)

It is a pleasure and an honour to present to the plenary the report of the Committee on the Application of Standards.

The Committee is a standing body of the International Labour Conference empowered under article 7 of its Standing Orders to examine the measures taken by States to implement the Conventions that they have voluntarily ratified. It also examines the manner in which States fulfil their reporting obligations as provided for under the ILO Constitution.

The Committee provides a unique forum at the international level. It governs actors in the real econ-

omy, drawn from all the regions of the world who have sat alongside one another during times of economic booms and busts. Significant work by all parties went towards the preparation for this session of the Committee.

In the framework of the follow-up to the events that took place in the Committee in 2012, the Governing Body held a constructive discussion on the main outstanding issues in relation to the standards supervisory system during its March 2014 session on the basis of a document prepared by the Director-General following consultations with the tripartite constituents.

The Governing Body took a number of decisions, including a call to all parties concerned, to contribute to the successful conclusion of the work of the Committee at the current session of the Conference. This process contributed to the smooth adoption by the Committee, in a timely manner, of a list of individual cases for discussion, something which had not been possible for the Committee in 2012.

Despite this positive accomplishment which allowed the Committee to hold very important discussions on, and supervise, the application of international labour Conventions in 25 cases, the Committee was ultimately unable to adopt conclusions for all these cases. It was able to do so in six cases which had been "double-footnoted" by the Committee of Experts in its 2014 report. I am sure that the Vice-Chairpersons of the Committee will provide their views on the reasons which led to the absence of conclusions in 19 cases.

The report before the plenary is divided into two parts, corresponding to the principal questions dealt with by the Committee. The first part addresses the Committee's discussion on general questions relating to standards and the General Survey of the Committee of Experts, which this year is concerned with minimum wage systems. The second part consists of the discussions on the 25 individual cases examined by the Committee and the related conclusions adopted in six of those cases. I will recall the salient features of the Committee's discussions in respect of each of these questions.

In the general discussion, the operative approach of the Committee's work, which is also the ILO's hallmark, namely oversight through discussion, was recalled. The fruitful dialogue between the Committee and the Committee of Experts is key in this respect. The Committee works closely with, and to a large extent on the basis of, the report of the Committee of Experts.

Furthermore, it is the established practice for both Committees to have direct exchanges on issues of common interest. To this end, the Vice-Chairpersons of the Committee engaged in an exchange of views with the members of the Committee of Experts at its last session in November–December 2013.

Subsequently, this year the Committee had the pleasure of welcoming the Chairperson of the Committee of Experts, who attended the first week of its session as an observer with the opportunity to address the Committee. The discussions placed emphasis on the importance of the interaction between the two Committees. The issues at stake following the 2012 session of the Committee were also addressed with reference to the ongoing process within the Governing Body.

During the first part of the Committee's work, it examined the Committee of Experts' General Survey concerning minimum wage systems, particularly the Minimum Wage Fixing Convention, 1970 (No. 131), and the corresponding Minimum Wage Fixing Recommendation, 1970 (No. 135).

The General Survey, together with the discussion in the Committee and the outcome adopted following that discussion, will inform the recurrent discussion on the strategic objective of social protection to be held at the 104th Session (2015) of the Conference, under the follow-up to the ILO Declaration on Social Justice for a Fair Globalization, 2008.

In accordance with a decision taken by the Governing Body in November 2010, the review of the General Survey by the Committee on the Application of Standards therefore took place, for the first time, one year in advance of the recurrent discussion by the Conference, so as to facilitate better consideration and integration of the standards-related aspects in the report prepared by the Office for the recurrent discussion and into the outcome of that discussion.

In the outcome it adopted following its discussion of the General Survey, the Committee noted that minimum wage fixing was intended to protect wage earners against unduly low wages and that it offered a means of establishing a level playing field for all employers.

It records that Convention No. 131 and Recommendation No. 135 set out a number of essential principles, including full consultation with the social partners, compliance with the principle of equal remuneration for work of equal value and periodic adjustment of minimum wages rates, while offering flexibility to member States in their implementation. Minimum wages may be established by legislation, by decision of the public authorities after consultation of employers' and workers' organizations, or on a tripartite basis, or through collective agreements provided they are legally binding.

In view of its contribution to the preparation of the recurrent discussion on social protection, the Committee drew a number of lessons from the General Survey and its examination relating to the needs of member States and the means of action of the Organization, in particular standards-related action, technical cooperation and assistance, and the technical and research capacity of the Office.

With respect to its core work concerning the individual cases, the Committee pursued its efforts to achieve a balance between the different regions in the list of cases. This year the breakdown of cases was as follows: Africa, seven cases; Arab States,

three cases; Americas, five cases; Asia and the Pacific, five cases; and Europe, five cases. As in previous years, the majority of the cases selected (15 out of 25) concerned the application of fundamental Conventions.

The Committee decided to include in its report a special paragraph on the application by Belarus of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87).

Finally, allow me to thank the Chairperson, Ms Gaviria, along with the Employer and Worker Vice-Chairpersons, Ms Regenbogen and Mr Lee-mans, for their cooperation. Let me therefore recommend that the Conference approves the report of the Committee on the Application of Standards.

Mr RØNNEST (*Employer, Denmark*)

I am speaking on behalf of Ms Regenbogen, Employer Vice-Chairperson of the Committee on the Application of Standards.

On behalf of the Employers' group, I commend the report of the Committee to the plenary and recommend its approval.

The work of the Committee started constructively and we expected it to finish as it started. However, it took us by surprise when, on the last day, the Workers refused to adopt 19 conclusions because of a divergence of views on how to reflect disagreement on three cases. This is deeply regrettable.

As you may recall, last year, the Committee agreed on the insertion of the following sentence for six cases which involved the right to strike related to Convention No. 87. The sentence was: "The Committee did not address the right to strike in this case as the employers do not agree that there is a right to strike recognized in Convention No. 87".

This sentence was not time-bound and there were no reservations attached to it.

During the current session of the Conference, the Employers negotiated the list of cases for consideration in good faith and delivered the list of 25 cases, plus two cases of progress, to the Governments by the proposed deadline. We advised the Workers that there were cases on the long list that involved the right to strike which the Employer members considered to be outside the mandate of the Committee of Experts. We had been transparent about our views on this matter during the negotiation of the list and also before the Committee and before the Governing Body. We highlighted to the Workers, when the negotiation of the list began, that it was expected that the conclusions of cases concerning Convention No. 87 would again include the sentence agreed upon and adopted by the Committee last year. As an alternative, and to avoid potential conflicts, we suggested to the Workers that Convention No. 87 cases should not be included on the final list, but this was not accepted.

After adopting the list of cases, the Committee moved forward and completed the discussion of all 25 cases over the course of the week. The discussions of each case were fruitful and the Committee had the opportunity to provide guidance to governments on how to ensure that national law and practice complied with international labour standards. The Employer members appreciated the effort that Government members had made to travel to Geneva, as well as their time and the presentations they made.

The Committee's work proceeded and, in our view, the cases were supervised. A number of cases

raised extremely serious issues relating to violations of fundamental Conventions. The Committee's work progressed well and conclusions were adopted for the six double footnote cases. The Employers worked diligently towards reaching conclusions on the remaining 19 cases. There were draft texts agreed between Workers and Employers which could have been ready for adoption on the cases of Bolivarian Republic of Venezuela, Saudi Arabia, Central African Republic, Colombia, Republic of Korea, Croatia, Ecuador, United States, Kazakhstan, Malaysia, Mauritania, and Uganda. There were only three cases – Algeria, Cambodia and Swaziland – where disagreement emerged, on how to reflect the difference of opinion regarding the right to strike. We expected that the issue could be addressed by the same compromise sentence that was adopted in 2013. However, we were, and remained, open, up to the last minute, to other forms of compromise, such as the inclusion of a second sentence in the conclusion expressing the Worker members' views on the right to strike, or the use of different language to reflect the Employer members' views. We proposed, as a possible compromise, that the exact wording of paragraph 91 of the report of the Committee of Experts, stating that the views of the social partners on the right to strike issue are diametrically opposed, should be included in the conclusions. However, the Workers adopted the position that under no circumstances could the Employer members' view be reflected in the conclusions. This is deeply regrettable.

We did not propose a new approach this year. We expected, given that the issue remained unresolved before the Governing Body, that the sentence agreed upon and adopted by the Committee the previous year could be used during the current session and would again provide a coping mechanism to deal with the differences of opinion. However, the Workers rejected that approach. We were disappointed but nevertheless tried to remain constructive, and we proposed to continue negotiations on conclusions on the 16 outstanding cases, to which the disagreement was irrelevant. In our view, there was an opportunity for broad consensus on those cases. The Employers were ready in the end to proceed to adopt conclusions on the cases where agreement already existed. Disagreement on one issue should not prevent consensus on other issues. The Workers' refusal to agree on conclusions for all the remaining 19 cases was very unfortunate, especially given that 16 were unaffected by the major differences on the right to strike in Convention No. 87.

We reaffirm our commitment to the supervisory system, including the Committee on the Application of Standards. The work that the Committee accomplished over the last two weeks is very important and is essential to the work of the ILO. We regret that the Committee's work did not culminate in conclusions at the choosing of the Workers. Nevertheless, governments are aware of the Committee's opinions on the cases that concern them. The direction given to the governments with respect to the supervision of the cases remains clear and we expect them to take appropriate action. The governments concerned should report to the next meeting of the Committee of Experts by the deadline of 1 September. Disagreements are intrinsic to tripartism and it is appropriate that they be reflected from

time to time. Tripartism is the ILO's greatest strength and gives it relevance and credibility.

The process of adopting the list of cases is difficult and highly political. Long and difficult negotiations took place in the selection of cases for the final list. Even though broad – too broad – objective criteria exist in document D.1, the political dimension of this process is undeniable. Further steps are therefore needed to make the decision on the list less controversial and less challengeable in the future. Ways need to be found to exclude, to the extent possible, political considerations and to base the selection only on the merits of the case. In addition to double footnote cases, other elements in the selection process could be of help. We need to deal with this issue as a matter of priority and to find a solution by March 2015.

As for the conclusions, Employers expect that, unlike in previous years, the Committee on the Application of Standards should adopt short, clear and straightforward conclusions which clearly reflect what was said during the discussion. What is expected from governments in order to better comply with ratified Conventions should be clear and unambiguous. Conclusions should also reflect concrete steps agreed with the governments to address compliance issues.

While the conclusions should normally reflect consensus recommendations, any divergence of views of the Employers and Workers in the case must be transparent and must be reflected in the conclusions.

Deep problems will arise in the supervisory system if the conclusions of the Committee on the Application of Standards do not respect freedom of expression and record divergent views. It would mean that the outside world, and other supervisory bodies of this house, would not know when constituents disagree and it would mean that article 37 processes would never be initiated, since no disputes on interpretation would arise from the Committee's conclusions. It would also undermine the standards review mechanism process.

In the general discussion of Part I of the report of the Committee of Experts on the Application of Conventions and Recommendations, we welcome once again the clarification of the mandate of the experts, as set out in paragraph 31 of the report. We trust this clarification will be made visible at the beginning of all future reports of the Committee of Experts, including the General Surveys.

We also made it clear that the role of the experts requires a certain degree of interpretation when formulating their non-binding guidance. This is logical. However, to reinforce the credibility of the whole supervisory system, it is crucial that the experts do not stray beyond their mandate to guide national authorities in their report. They cannot stray into indirect labour standards setting by adding further obligations to the Convention by means of expansive interpretations; or by filling in gaps that have appeared since the Convention was agreed; or by narrowing the flexibility of Conventions by providing subsequent restrictive interpretations.

Standard setting is vested solely with the ILO constituents. This is a principle that the Employers will resolutely defend. Voids in the international labour standards created by the continuing absence of an operational standards review mechanism cannot be filled. There is Governing Body consensus

that we need a relevant and up-to-date body of ILO standards and we await the imminent proposal to commence the standards review mechanism. The experts' non-binding opinion and recommendations are no substitute for a standards review mechanism. Any overstepping of their mandate undermines the supervisory system and hampers the work of the Governing Body.

The experts, in their report, recalled that they have set out, in detail, observations relating to the right to strike, taking into account the criteria applied by the Committee on Freedom of Association. This risks a critical misunderstanding. The Committee on Freedom of Association is neither a mechanism for supervising ILO Conventions, nor a tripartite standard-setting body. The work of the Committee on Freedom of Association is based on the call of the ILO Constitution to recognize the principles of freedom of association, and not freedom of association as set out in 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). Therefore, the decisions taken in relation to specific cases may not be elevated as general principles or general rulings with reference to Conventions Nos 87 and 98. The very simple fact that the Committee on Freedom of Association engages in the promotion of constitutional principles and is not bound by the application of any specific Convention allows workers' and employers' organizations to make use of this special procedure with regard to member States that have not ratified the relevant Convention on freedom of association. For this reason, its recommendations cannot be deemed to be case law in the sense of an interpretation of the standards laid down in Conventions, nor does the Committee have any authority to deem it so.

Another important aspect is that the members of the Committee on Freedom of Association are members in their personal capacities only. They do not represent the ILO constituents, rather they are derived from those constituents.

We thank the experts for recognizing, in paragraph 92, that the system allows their work to be questioned and for confirming that, if there is a dispute concerning the correct interpretation of a Convention, the ILO Constitution provides for a way forward via article 37. This logically means that, if the constituents in the Committee on the Application of Standards do not agree with an interpretation, the correct functioning of the credible supervisory system seems to require that the case be taken forward via article 37, if necessary. The need for visibility of disagreement in the conclusions is therefore at total odds with the position of the Workers, who challenge the sentence, including in most of the Convention No. 87 conclusions adopted by the Committee on the Application of Standards in 2013. We look forward to working to resolve the mechanics of article 37 at the November Governing Body session, in order to further strengthen the supervisory system.

The discussion on the General Survey was useful, in that it brought to light significant divergences in the national and intranational approaches to wage policy and minimum wage systems. This supports the overriding message of the Employers that one size does not and cannot fit all. The divergence of approaches between nations is not simply a product of whether a nation has ratified the Minimum Wage

Fixing Convention, 1970 (No. 131), or not: that does not seem to be the factor that establishes a de facto system of minimum wage setting. As the General Survey is, by nature, limited, since Convention No. 131 serves as its reference point, broader areas of wage policy need to be covered in the discussion, including the financial capacity of enterprises, enterprise productivity, the trade-off between minimum wages and unemployment, the question of equity in the income levels of employers, small and medium-sized enterprises and the self-employed, and the agility of wage systems to deal with short-term economic changes, to mention a few. Minimum wage levels have direct and indirect impacts on economic development, productivity and levels of employment. Wage levels that are too high result in increased production costs and may decrease competitiveness, which often leads to job losses or fewer employment opportunities. When unemployment rises, the workers most affected are often the most vulnerable: young people, women and disabled people – the very group that minimum wages are expected to protect.

That is why consultation of employers needs to be ensured, in order to determine the group of wage earners to be covered by Convention No. 131 and to establish, operationalize and modify minimum wage fixing machinery. Also, it is fundamental that employers are consulted when determining the level of minimum wages, so as to include not only the needs of workers and their families, but also economic factors, including the requirements of economic development, levels of productivity and the desirability of attaining and maintaining high levels of employment.

The ratification prospects for Convention No. 131 do not seem to be overwhelming. A number of countries indicated that they have either not yet considered the possibility or they do not plan to ratify, in part because of concrete divergences between the Convention and national law and practice. I have also noticed that, in a number of countries, trade unions are not in favour of ratification.

The Employers highlighted important rigidities and other difficulties in the application of Convention No. 131 which can hinder acceptance and ratification. As a first step, the Employers proposed that the currency of the Convention could require further analysis that takes into account contemporary approaches. This analysis could be undertaken by the standards review mechanism as soon as it becomes operational.

The Employers would like to make comments on a number of problematic cases concerning the application of ratified Conventions. The following cases affect employers and present serious violations of ratified Conventions: Serbia: Conventions Nos 87 and 144; Chile: Convention No. 87; Uruguay: Convention No. 98; Togo: Convention No. 87; El Salvador: Convention No. 144; Bolivarian Republic of Venezuela: Convention No. 87; Plurinational State of Bolivia: Convention No. 131; and Mauritius: Conventions Nos 98 and 144. National employers and the International Organisation of Employers will be making submissions to the experts and the Committee on Freedom of Association on these cases.

In conclusion, the Employers wish to put on record their continued support for the ILO standards supervisory system. The main role of this system is to guide member States on key matters relating to

the governance of labour and social policy, thus enabling them to find ways that, at the same time, promote adequate protection of workers and full employment through sustainable enterprises.

As I said earlier, the work of the Committee on the Application of Standards started constructively and we expected it to finish in the same vein. This was not the case, which is regrettable. A crisis in confidence is affecting the system; the status quo is no longer an option. A discussion about the ILO supervisory system needs to take place urgently. All parties need to reflect and ask themselves questions about the system and how its credibility and relevance to the outside world can be improved.

I would like to conclude by thanking the Officers for their support, in particular, Ms Doumbia-Henry. Special thanks go to our Chairperson, Ms Gaviria, for the fair parliamentary running of the Committee's meetings this year. We thank our Reporter, Ms Mulindeti, who ensured that the Committee's work is properly recorded. I also thank the Employers' group, especially Ms Regenbogen, who could not be here today and who ably acted as Employer Vice-Chairperson in most sittings of the Committee. I would also like to thank Juan Mailhos, Chris Syder, John Kloosterman, Renate Hornung-Draus, Garance Pineau, Paul Mackay, Peter Anderson, Guido Ricci and Kaizer Moyane for their help in preparing and presenting their cases. I would like to express our gratitude for the support of Maria Paz Anzorreguy, Alessandra Assenza and Catalina Peraffán of the International Organisation of Employers and Christian Hess of the Bureau for Employers' Activities. Lastly, I thank the Government members and Marc Leemans, Worker Vice-Chairperson, and his team for their collaboration.

Original French: Mr LEEMANS (Worker Vice-Chairperson of the Committee on the Application of Standards)

Allow me to begin by welcoming the good work that has been done in the other committees, particularly with regard to the adoption of a Protocol and a Recommendation attached to the Forced Labour Convention, 1930 (No. 29).

I think that everyone is aware that the work of the Committee on the Application of Standards took place in a very different context.

The Employers' group, as it did in 2013, demanded that a statement be included in the conclusions for all those cases involving the right to strike. The statement would have noted that the Employers disagree with the Committee of Experts on whether the right to strike is included in the freedom of association enshrined in the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87).

For reasons which I shall go into in a moment, and which I am sure the Employers must have been aware of, the Workers' group was unable to accede to this request. We tried everything to find a solution to this problem, but we did not manage it. To put it plainly, we have become convinced that we are facing a deliberate attack on the ILO's standards system. The Governing Body will have to continue to work to find a long-term solution to these difficulties that is acceptable to all of the constituents.

Initially, it was proposed that these issues would be discussed at the November 2014 session of the Governing Body, but we think that the Governing Body should begin to work on the question during its meeting tomorrow. This would enable the Direc-

tor-General to present ideas that might be useful in finding a solution that could be made effective as of the 2015 session of the International Labour Conference. We do not want to discuss a revision of the system until this problem is solved. It has become clear that we need a third party to resolve the legal argument that has been raised by the Employers once and for all. This third party can only be the International Court of Justice.

I will elaborate on these two points shortly, but first let me celebrate the two satisfying outcomes of our work. Our Committee managed to propose unanimous conclusions on the General Survey concerning minimum wage systems. We hope that these conclusions will help the work to be done next year in the Committee for the Recurrent Discussion on Social Protection. However, we should not hide the fact that the unanimity of the conclusions masks deep differences. I am thinking, for example, of the relationship between wages and social protection, or the distinction between workers and young people in training. Perhaps the report puts it more succinctly, where it recalls that labour is not a commodity and that, therefore, wages are not merely a price set by the market.

We, like our entire Committee, welcome the fact that this preparatory discussion has been able to take place a year in advance. We hope that will give the Office the time to produce a well-argued report addressing the points of controversy as well as the essential points. We very much hope that the work done next year will be fruitful and far-reaching.

Our Committee has also been able to provide conclusions on the six cases that were given a double footnote by the Committee of Experts, meaning they were automatically considered by our Committee. We are pleased because these cases concern very important problems: child labour in Yemen, in the context of an armed conflict, and also more generally in the mining and construction sectors; child labour in Niger, where more than half of the country's children work rather than benefiting from schooling; freedom of association in Belarus; labour inspection in Bangladesh, particularly in export processing zones and in the construction sector – and the urgency of this problem has been highlighted recently by a tragic event; discrimination in the Dominican Republic against individuals from Haiti, and also against women; the social protection situation in Greece in the context of austerity programmes which have been imposed within the context of the European Union's procedures.

But the Committee was unfortunately not able to present conclusions on the 19 other cases which were put on the agenda following the proposals from the social partners. Who was responsible for this failure? I am not going to try and answer that question. At this stage of the Conference, the questions of who was right and who was wrong are really not very useful. Our hope is that this failure will be the foundation for a new start.

When we set out to identify the causes of the failure, what we need to do is seek to improve the procedures to make sure that the standards system that we all believe in is strong and able to do its work. What do we, the Workers' group, believe in? We believe that the ILO has a key role to play in promoting and achieving progress in social justice. We believe in the importance of fundamental rights such as freedom of association and the right to collective bargaining. We believe in social dialogue

and the practice of tripartism by governments and employers' and workers' organizations. And, within the framework of tripartism, we believe in the ILO's standards system. This standards system monitors the application of standards in law and in practice, and the supervision occurs through the interaction of the Committee of Experts on the Application of Conventions and Recommendations, the Committee on the Application of Standards and the Committee on Freedom of Association. Each of these bodies has its own legitimacy. They are complementary and none of them is hierarchically superior to any other. The Workers' group attaches particular importance to this tripartite mechanism, which is unique in the United Nations system. We have heard the Employers express very much the same sentiment in their statements, so we hope that they, along with the other constituents, will contribute to determining the lessons to be learned from this failure. A number of governments have also taken the floor to reaffirm their support for the supervisory mechanism. So what are the reasons for the failure?

The disagreement that the Employers are expressing is not new. It was expressed for the first time at the beginning of the 1990s – in other words, at the end of the Cold War. But until 2011, this disagreement did not prevent our Committee from reaching conclusions. Quite simply, we got into the habit of not raising this point of discord. Explicitly identifying this disagreement in our conclusions would fundamentally modify our mandate and that has always been unacceptable to the Workers. What is our mandate? The mandate of our Committee relates to supervising the application of Conventions and Recommendations. To fulfil this mandate we need to discuss the information presented by governments of member States, particularly by those who are included on the list of the 25 cases to be considered during the Conference. This list is established partly on the basis of whether the discussions will have a tangible impact on the relevant countries. As a number of governments have confirmed in their statements, conclusions only make sense if they are unanimous. By explicitly stating disagreements in the conclusions, we allow the governments concerned simply to draw their own conclusions. As I am sure you will remember, in 2012 the Employers' position led to a total failure of the Committee on the Application of Standards, which was not even able to reach agreement on a list of cases to be considered. In 2013, in order to allow the process to proceed normally, the Workers' group allowed the inclusion of a sentence demanded by the Employers. We said at the time that this was a one-off concession and not an admission of weakness; these were the words I said on this very podium at this same time last year. We allowed it, pending the resolution of the matter by the Governing Body. In March 2014, the Governing Body came to some decisions, and we believed, on the basis of the preliminary contact that we had in the run-up to the Conference, that these conclusions would enable us to move forward. We had hopes of progress but unfortunately these hopes have been dashed.

We are furious because the Committee on the Application of Standards, the very heart of this house, is no longer in a position to do its job. This is not a dispute between Employers and Workers; allow me to repeat what I have already said: this is a full-

blown attack on the ILO standards system in the face of which governments cannot remain passive.

Why have we given up on conclusions on those cases where the right to strike was not involved? Well, first I would like to emphasize that this was not an easy decision to take, far from it. The majority of cases that were submitted to our Committee were included on the list at the request of the Workers. This is logical because it is principally workers who are most invested in compliance with labour standards. Our colleagues come to us, often from very far away, to talk about their difficulties. Those who have been present in this room can confirm that their words and testimonies have often been charged with emotion. I can assure you that these emotions were not in any way feigned, simulated or pre-arranged. They hoped that the Conference would offer a forum for them to express themselves, to explain their situations, but also to give them some guidelines to enable them to find a way out of their situations, in some cases with the help of technical assistance or a mission from the ILO.

In the three cases where the right to strike was involved, that was not the fundamental issue concerning the workers from the relevant countries. Their main concern was discrimination, often grave discrimination, against union activists or against organizations that the government did not look favourably upon. And in those cases where the right to strike was fundamental, it was not necessarily a question of whether or not the right existed in the country's legislation, but of its application by the legal or administrative authorities, who were not demonstrating the required qualities of independence and due procedure.

And today these workers are being held hostage by a dispute not of their own making. And what is true for the three cases concerned is also true for other cases that are very important for the Workers' group. I am not going to mention all of the cases dealt with by our Committee, but I would like to underline the fact that they deal with such important matters as the protection of migrant workers against practices which are often tantamount to slavery, discrimination against union leaders, child labour, and employment policy in the context of European austerity policies. There are many, many important cases for the Workers' group, but despite this, the Workers' group decided not to adopt conclusions on them. Why?

Today, the Employers are challenging the experts' interpretation of Convention No. 87 with regard to the right to strike. It is a longstanding disagreement, and it is a particularly sensitive subject for the Workers. But the Employers have clearly sent the message that, for them, consensual conclusions are a thing of the past. And not only with regard to the right to strike: we have also heard challenges to the experts' interpretation of the concept of "public servants" in: the Right to Organise and Collective Bargaining Convention, 1949 (No. 98); questioning of the legal scope of the Social Security (Minimum Standards) Convention, 1952 (No. 102); and the Employment Policy Convention, 1964 (No. 122); and many other questions. If we continue on this path, it will no longer be enough to challenge a certain interpretation of the standards; there will be fundamental challenges to the very existence and relevance of these standards. And in the case that we have before us and in the procedures of the ex-

isting framework, there is nothing that will enable us to overcome such a stumbling block.

The attitude of the Employers is an all-out attack against the standards supervisory mechanism. They want to put the experts in a subordinate role to the Committee on the Application of Standards. Now, as I said just a moment ago, these two bodies each have their own legitimacy, they are interdependent and not hierarchically subordinate one to the other. Why do we, the Workers, support the experts on the question of the right to strike?

I do not want to turn my statement into a lecture on law, but please allow me to emphasize that the Workers support the traditional interpretation of the Committee of Experts, not simply because it suits us, but because it is the only plausible construction of freedom of association in the ILO Charter and consequently in Convention No. 87. To put it another way, in international labour law, the ILO has enshrined the right of workers to organize, to form unions to negotiate their working conditions. The right to organize implies the workers' right to collectively refuse to work under conditions which they believe not to be in line with their interests or the negotiated conditions. The Committee on the Application of Standards is not a court, nor is it a legal body; we understand that it would be a delicate, sensitive issue for employers' representatives to recognize politically the right to strike. And that is why the Workers' group has never insisted that our Committee's conclusions affirm the right to strike, or the limits of the right to strike; we have never done that.

Coming back to the list of cases, it is clear that establishing this list is a difficult exercise; there is always some discontent. We know that there needs to be a certain balance in the list. It is not a question of identifying one specific kind of problem or ideology, still less, a certain group of countries; the key criteria must be the seriousness of reported failures, and one specific group should never be in a position to veto proposals made by others.

For example, the Workers' group bitterly regretted not having been able to deal with the serious concerns with regard to freedom of association in Guatemala, Zimbabwe and Turkey. In the case of Guatemala, it was a question of following up cases of violations of freedom of association which have been outstanding for many years. The Governing Body established a roadmap and we are waiting to see the results at the next session of the Governing Body in November. Zimbabwe is also a case that has been discussed many times over recent years and unfortunately no real progress has been made. With regard to Turkey, the country could have responded in detail to the remarks made by the Committee of Experts, and perhaps have demonstrated progress in view of its desired accession to the European Union. The reasons why these cases were not included in the list remain opaque for us.

We find ourselves in a situation where the tripartite supervisory mechanism has been taken hostage by a systematic blocking, both with regard to defining the cases to be examined and with regard to adopting conclusions that encourage the countries concerned to improve their legislation and practice. And it is for this reason that the Workers' group unanimously decided that it was time to grasp the nettle. I would repeat that, in doing so, our objective was not to undermine the tripartite supervisory system. On the contrary, by denouncing the problems

we are dealing with at the moment, we hope to give rise to a process of reflection that will lead to the necessary reforms.

It is not my place, as the Worker Vice-Chairperson of the Committee, to anticipate the decisions of the Governing Body, to define those reforms for them. However, I would like to say that the Committee on the Application of Standards, which is neither a court nor a forum for negotiating new standards, can only work effectively if all parties accept the rules. There are many rules that apply; allow me to mention some of them.

First, the cases submitted to the Committee should be chosen in accordance with their level of importance, not with regard to arbitrary positions taken by different parties.

Second, recommendations to governments should reflect the unanimous opinion of the social partners. During discussions we accepted a compromise solution; however, it was refused by the Employers. The compromise would have allowed disagreements to be identified in the report section that introduced the conclusions. More specifically, in the three cases where there was a divergence of opinion we would have included the following sentence, and I quote: "The Committee took note of the opinions expressed by the Employers' group according to which it does not agree that the right to strike is recognized in Convention No. 87 and recalled that the question of the interpretation of Conventions is currently under discussion in the Governing Body." But this concession, in our view, could not be included in the conclusions or the final recommendations, whatever we choose to call them. We wanted to put it before the conclusions and that proposal was refused.

Third, we cannot allow legal disputes on the interpretation or the scope of standards to go on forever. In our view, the authorized interpretation comes from the Committee of Experts, unless that interpretation has been clearly contradicted by an authorized legal authority. As the Committee of Experts noted in its General Survey of 2013, the acceptance of this concept is indispensable to the certainty of law required for the proper functioning of the ILO. If we find that the reports that we are considering are unfounded or insufficiently supported, we can request further justification, either in an additional written report, or in a hearing or some other way. Failing this, we would need a procedure to resolve legal disputes in accordance with article 37 of our Constitution.

For the moment, and as I said at the beginning of this statement, we believe that we should submit the question of the interpretation of Convention No. 87 to the International Court of Justice.

I could identify more specific problems, but they can be dealt with by the Committee's Working Group on Working Methods. For example, it would be useful if the governments' responses to the remarks of the Committee of Experts were communicated in advance. The debates, and maybe the conclusions, could be altered in light of this information. When we receive this information during the sittings it is not generally possible to substantiate it or ensure that it is relevant. We could also think about the possibility of establishing a group to substantially shorten the report of the Committee's work, thereby giving a brief summary of the discussions that took place.

Allow me to close by expressing two hopes. Firstly, that the governments whose cases were discussed still take into account the debates that took place and report on progress. Secondly, that the Governing Body of the ILO swiftly find solutions that will enable the supervisory system to move forward as from the 2015 session of the Conference.

On behalf of the Workers' group, I recommend the approval of the report of our Committee by the Conference. But before finishing, I would like to thank all of those involved in the Committee on the Application of Standards, beginning with our Chairperson, Ms Gaviria, our Reporter, Ms Mulindeti, as well as Ms Doumbia-Henry and Ms Curtis. I would also, of course, like to thank the Workers' group and the Worker members of our Committee as well as our colleagues from the Bureau for Workers' Activities for their excellent cooperation, their solidarity and the spirit of cohesion that they showed throughout this lengthy session. And of course, despite our disagreements, we would also like to thank, on behalf of the Workers' group, the Employers, and more specifically their Vice-Chairperson. And finally, thank you to the staff of the Office and the interpreters who, as usual, did an excellent job, not only in our Committee but across the whole Conference.

Original Spanish: Ms GAVIRIA (Chairperson of the Committee on the Application of Standards)

I have the honour of taking the floor to make a few comments on the work of the Committee on the Application of Standards, which it has been my privilege to chair.

First, I noted with pleasure the interest shown by the constituents of this Organization in the work of the Committee and also the spirit of dialogue that allowed us to have discussions at a high technical level. An example of this was our examination of the General Survey concerning minimum wage systems prepared by the Committee of Experts. Members of the Conference Committee appreciated the quality of this General Survey, which referred to issues of vital importance in the world of work.

The Committee adopted consensual conclusions at the end of its discussions on the General Survey and it is hoped that the results of its work will be taken fully on board within the context of the recurrent discussion on social protection that will take place at the 104th Session of the Conference in 2015.

With regard to the examination of the individual cases, positive comment has been made on the fact that a list of 25 cases was adopted at the start of the Committee's work, respecting time frames and also the programme of work, and this allowed us to have a discussion on all the cases. The cases were selected in relation to the application of fundamental, technical and promotional Conventions and they also reflected a regional balance. I would also like to emphasize the good will of the Governments that were invited to submit information to the Committee, which was apparent in their presentations and in their thorough collaboration in the discussions that took place.

In relation to six cases on the list, for which the Committee of Experts had asked the Governments concerned to report in detail to the 103rd Session of the Conference, the Committee reached consensus-based conclusions.

However, the Committee did not adopt conclusions in the other 19 cases. The discussions held on these cases reflected the positions of all the participants and, in many cases, there was some agreement on the measures that should be adopted to ensure compliance with the Conventions concerned. The issues still pending on some topics that were discussed thoroughly in 2012 remained unresolved and that prevented the adoption of consensual conclusions on these cases. However, the Committee has asked the Governments to continue to provide the necessary information.

Here I would like to encourage all the Governments and the representatives of the social partners to pursue their endeavours to intensify social dialogue in order to come up with appropriate solutions that will allow this supervisory body of the Organization to function properly. The ILO member States have underlined the vital importance of the supervisory system of the Organization for the promotion of universal human rights and international labour standards. From my own experience in my country, I can say that the conclusions adopted by the Committee, the technical work of the Committee of Experts, the recommendations of the Committee on Freedom of Association and the assistance of the Office are all efficient tools for tackling the challenges in the application of international labour standards.

The discussions within the Committee confirm that the international community is demanding an urgent solution to the issues concerned.

I would like to express my gratitude to Judge Koroma, the Chairperson of the Committee of Experts, for visiting the Conference Committee once again. The presence of the Chairperson of the Committee of Experts is a sign of the very solid relationship between the two Committees, based on a spirit of mutual respect, cooperation and responsibility.

I trust that the countries whose cases were examined will be able to draw from the discussions the necessary guidelines for finding solutions, with ILO technical assistance if necessary, to all the issues that were raised.

I would like to express special thanks to the President and Vice-Presidents of the Conference for visiting our Committee. It was a pleasure to receive them and this gesture was greatly appreciated. I would also like to thank the Committee's Reporter, Ms Mulindeti, for her very efficient work. In addition, I would like to express my gratitude to the Employer Vice-Chairperson, Ms Regenbogen, and the Worker Vice-Chairperson, Mr Leemans, and their respective teams for the courtesy and collaboration that they displayed in their work with us. I would like to thank the representative of the Secretary-General, Ms Doumbia-Henry, and all the other members of the secretariat for the complex work that they accomplished. Lastly, I would like to thank the interpreters for their excellent work.

It only remains for me to invite you to approve the Committee's report.

The PRESIDENT

I now open the floor for a general discussion of the report of the Committee on the Application of Standards.

Mr BEHZAD (*Government, Islamic Republic of Iran*)

On behalf of the Government group, I wish to express the Governments' dissatisfaction and disappointment with the failure of the Committee on the Application of Standards to present conclusions for all the 25 cases that were heard this year.

The Government group reaffirms that, in order to exercise its constitutional responsibilities fully, it is essential for the ILO to have an effective, efficient and authoritative standards supervisory system, of which the Conference Committee on the Application of Standards is an essential component. Once again, we reiterate our full commitment to the supervisory system of the ILO, including the analysis of individual cases by the Conference Committee on the Application of Standards. We are therefore disappointed to be confronted, yet again, with the Committee's failure to complete its work this year. We invest considerable resources in the proper functioning of the Committee and some of us have come from very far to present our cases before the Committee. We deeply regret that conclusions were not adopted in 19 cases, and we are concerned about the negative impact that this situation could have in the near future. We hope that it does not affect the process in which the Governing Body is engaged.

We had worked very positively within the framework of the Governing Body to address disputes or questions that might arise in respect of the interpretation of a Convention, and we had hoped that this would suffice to ensure a functioning Committee in the meantime.

This situation illustrates the urgent need for the rapid resolution of the difficulties surrounding the ILO supervisory system. We wish to express our full engagement and our commitment to the success of the process in which the Governing Body is engaged, and to the Director-General and others working to this end.

Mr LEWIS (*Government, Canada*)

I am speaking on behalf of the group of industrialized market economy countries (IMEC). IMEC is profoundly disappointed that the Committee on the Application of Standards was not able to adopt conclusions in all the cases that it discussed this year. For the second time since 2012, the Committee on the Application of Standards was unable to complete its work. This is a troubling situation because it could cause serious and possibly irreparable damage to the strength and credibility of the ILO's supervisory system, which heretofore has been cited as the most advanced and best functioning of the international system.

IMEC recalls its firm and enduring support for the ILO's supervisory system, of which the Committee on the Application of Standards is an essential component, given the role that it plays in facilitating the implementation of, and adherence to, international labour standards. We continue to believe that maintaining the integrity, effectiveness and authority of the supervisory system is of fundamental importance to the Organization as a whole and is directly related to ensuring the relevance of international labour standards in the contemporary world.

The issues that so deeply divided the Committee on the Application of Standards in 2012 are now under consideration in the ILO Governing Body. IMEC had hoped that, while this work was under way, differences of opinion regarding the right to

strike would not prevent the Committee on the Application of Standards from successfully fulfilling its appointed task. Indeed, last March, the Governing Body underscored the critical importance of the effective functioning of the Committee on the Application of Standards, in conformity with its mandate, at the 103rd Session of the International Labour Conference and called on all parties concerned to contribute to the successful conclusion of the work of the Committee in 2014. We welcomed the fact that a final list of country cases was negotiated by the Workers and Employers and was adopted on schedule by the Committee. This was an important accomplishment. However, it takes more than a list of cases to bring the Committee's work to a successful conclusion.

Governments have no role in negotiating the conclusions in individual country cases, just as they have no role in determining the contents of the list of cases, but governments invest time and resources in supporting the process and we have a vested interest in seeing that the Committee on the Application of Standards successfully adopts conclusions in every single case that it discusses. Conclusions reflect the Committee's deliberations and highlight the importance that the Committee attaches to the application of international labour standards in those cases. We had hoped that our Worker and Employer colleagues would find a solution that would allow for the adoption of conclusions with which both groups could live, while the Director-General and Governing Body address the underlying issues. We deeply regret that this was not possible. We understand that the two groups were diametrically opposed on the key issue in question. We also fully appreciate that each group was operating on the basis of a firmly held principle. Nonetheless, the outcome was extremely unfortunate.

If anything positive is to come out of this latest failure in the Committee on the Application of Standards, we hope that it will be a strong signal that the difficulties surrounding the ILO's supervisory system must be resolved rapidly. That sense of urgency is clear to everyone involved. IMEC deeply regrets the situation this year, but we continue to have faith that the ILO can withstand the current challenges and move forward in a positive and constructive manner. Moreover, we continue to believe that tripartite dialogue, the ILO's essence and its strength will prevail. We reiterate our strong support for the Director-General and the process that he has initiated towards a lasting solution to these challenges.

Ms GKOUVA (*Government, Greece*)

I am speaking on behalf of the European Union and its Member States. The following countries aligned themselves with this statement: the former Yugoslav Republic of Macedonia, Montenegro, Iceland, Serbia, Albania, Ukraine and Republic of Moldova. We support the statement made by IMEC.

We would like to reiterate our view that the ILO's supervisory system contributes to the promotion of universal human rights. This is important to us all, since we are engaged in the promotion and protection of human rights, whether civil, political, economic, social or cultural. We are seriously concerned by the situation that we face today, as we see a real risk to the ILO's unique tripartite structure and its key activity of standards supervision. The failure to produce conclusions jeopardizes the cred-

ibility of the ILO's supervisory system. It also jeopardizes freedom of association, the elimination of child labour, the fight against discrimination and the abolition of forced labour – basic human rights.

It also affects the European Union, however. Some of our policies and instruments make reference to the promotion of international labour standards and to the results of their supervision. The conclusions of this Committee are important to us in assessing compliance with those standards. We attach great importance to having a functioning Conference Committee on the Application of Standards. It plays a key role in monitoring and promoting international labour standards. We need impartial supervision of the implementation of international labour standards.

We call on all constituents, in particular the social partners, to support the standards supervisory system and the work of the Governing Body and the Director-General in seeking a long-term and lasting solution to these disputes.

Original Spanish: Ms PRIETO (Government, Colombia)

The Government of Colombia is committed to international labour standards and has been implementing these both in legislation and in practice. In addition, tremendous effort is being made to comply with the commitments assumed by the ILO and the international community and we are very respectful of the control bodies of the Organization.

We consider it pertinent to recall that in Colombia the right to strike is enshrined in article 56 of the Constitution. This right is closely related to the principles of solidarity, dignity and participation, and to the achievement of a just social order, all of which are guaranteed by provisions of our Constitution. Regardless of any other consideration, the right to strike is considered in Colombia as a fundamental element of the process of collective bargaining.

Mr GARNER (Government, Australia)

I make this statement on behalf of the Asia and Pacific group (ASPAG), which is extremely concerned that the Committee on the Application of Standards was not able to complete its work at this 103rd Session of the Conference owing to the failure to reach conclusions by consensus on all the individual country cases.

ASPAG does not apportion blame for this situation, but notes that it is the responsibility of the social partners to contribute to consensual conclusions by the Conference Committee and this has not occurred. This is now the second time in the past three years where the Committee has not functioned effectively. This is now the second time in three years where the Committee has not been able to fulfil its critical role in the ILO's supervisory system. And this is the second time in three years where the Committee has not delivered on its responsibilities to provide certainty and clarity to governments, to workers and to employers in respect of important matters of labour and industrial laws as they relate to ILO Conventions.

The Conference Committee has once again failed our respective constituencies and failed those who need it most. Let me be very clear here: this is not acceptable to ASPAG.

Following the failure of the Conference Committee in 2012, the tripartite partners have gone to great lengths to address a range of issues, including in

respect of the mandate of the Committee of Experts, whose members have contributed their views and reasoning on the matters in question.

As recently as its 320th Session in March, the Governing Body agreed on a way forward with regard to outstanding matters arising within the supervisory system. Most importantly, the Governing Body "called on all parties concerned to contribute to the successful conclusion of the work of the Conference Committee on the Application of Standards at the 103rd Session of the International Labour Conference".

It is self-evident that we, as a collective, the tripartite partners of the ILO, have failed to respond to this call in the manner required and we have therefore failed those who most need and rely upon the ILO's supervisory system.

ASPAG wishes to place on record its appreciation for the efforts to date of the Director-General to encourage a resolution of this critical issue and ASPAG will continue to support the Director-General's efforts in this regard.

ASPAG will continue to contribute to the determination of a way forward with the best interests of the ILO's supervisory system and our constituencies in mind. Further discussion, with a view towards resolution of this issue at the 322nd Session of the Governing Body in November, will be of critical importance.

Original Spanish: Ms MENÉNDEZ (Government, El Salvador)

Our delegation regrets that, once again, we are faced with a situation similar to that which arose in June 2012. Various attempts have been made to find a solution in this regard, given that failure to do so would harm the image of the ILO as an institution. Yet, however, it has not been possible to address the issue, meaning that procedures which should have been resolved at this Conference remain pending.

Workers have long enjoyed the right to strike, a right governed by the legislations of most of our countries and considered to be an essential part of collective bargaining agreements. Strike action is essentially undertaken with the aim of making demands and not merely for economic reasons. It could be claimed, therefore, that the lawmakers did not make explicit reference to the right to strike because they tacitly recognized that the said right was both inherent in and integral to any collective bargaining agreement, its absence rendering any such agreement meaningless.

In order, however, to try and shed some light on what appears to be a gap in legislation and given that the social partners have not managed to reach an agreement, we must turn to the body referred to in article 37 of the Constitution of the International Labour Organisation. We must have a genuine tripartite discussion within the framework of the Governing Body on the approach to be adopted in order to bring an end to this long-running, complicated controversy. The issue in question has made it impossible to seek solutions to the complex problems that we face in the world of work. Furthermore, it is seriously weakening the standards system, which is the backbone of the ILO. We wish to reaffirm our commitment to the ILO, to the roadmap adopted in March 2014, and to the skilful leadership of the Director-General, Mr Ryder.

Finally, we reiterate our strong desire to continue with our efforts to reach an agreement as sought by the management of this Organization.

On this, the last day of the 103rd Session of the International Labour Conference, I would have liked to talk about the successful work of the Committee on the Application of Standards in reaching conclusions concerning some of the worst cases of labour rights violation.

As you all know very well by now, however, the reality cannot be further from the truth. I would like to take this opportunity to applaud the unanimous decision taken by the Workers' group last week to defend the integrity of the ILO's supervisory mechanisms.

It is no secret that, last year, the Workers agreed to a one-off so-called "disclaimer" concerning conclusions relating to cases in which elements of the right to strike had been included. This was a one-off deal to make it possible to proceed with the work of the Committee in 2013. This good-faith offer was also made taking into account the bilateral meetings facilitated by the Government of Switzerland, on an initiative taken by the Director-General.

Consensus on the way forward was reached by the Governing Body in March 2014. The Governing Body adopted a comprehensive decision, based on full tripartite consensus. Under this decision, among other things, the Governing Body: first, underscored the critical importance of the effective functioning of the Committee on the Application of Standards in conformity with its mandate at the 103rd Session of the International Labour Conference; second, requested the Director-General to prepare a document for its 322nd Session, in November 2014, setting out the possible modalities, scope and costs of action under articles 37(1) and (2) of the ILO Constitution to address a dispute or question that may arise in relation to the interpretation of an ILO Convention; third, requested the Director-General to present to the 322nd Session of the Governing Body, a time frame for the consideration of remaining outstanding issues in respect of the supervisory system and for launching the standards review mechanisms; and fourth, called on all parties concerned to contribute to the successful conclusion of the work of the Conference Committee on the Application of Standards at the 103rd Session of the International Labour Conference.

Apparently, the decision must have fallen on deaf ears.

The Employers chose instead to insist on the disclaimer, even though the Workers had only agreed to it as a temporary fix for 2013. By doing so, they also attacked the fundamental principle of reaching conclusions by consensus.

In view of the opening up of new and shocking lines of attack by the Employers, suggesting among other things that the experts had exceeded their mandate in reaching conclusions on specific elements of the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), and the Collective Bargaining Convention, 1981 (No. 154), among others, statements such as: "Welcome to the new normal" are of no help at all.

A number of attempts at specific proposals were put forward in an attempt to find a solution to this impasse, all of which were rejected by the Employers.

We feel as Workers that we are being taken for granted. We gave an inch last year and we are concerned that, in this and subsequent years, the Em-

ployers will be asking, not just for an inch, but for a yard but perhaps more. We ask: why are we here in the first place? It is paramount and imperative that the impartiality offered by the ILO's supervisory function be maintained.

In this regard, I would urge the Governing Body to take an active role in addressing the issues at hand and, at a minimum, to consider referring without delay the question of the right to strike under the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), to the International Court of Justice for an advisory opinion.

Tripartism is the way forward, and I fully support this. In conclusion, I would like once again to salute the steadfastness of the Workers' group and its Chairperson, Mr Leemans, and also the ILO department led by Ms Doumbia-Henry and her staff during this very challenging time.

Original Spanish: Mr COLMENARES GOYO (Government, Bolivarian Republic of Venezuela)

On behalf of the Government of the Bolivarian Republic of Venezuela, we would like to make a statement on the report of the Committee on the Application of Standards. The report contains a summary of events which, once again, have signalled the failure of our current methods, pointing out the way forward for this Committee. These events are doubtless a consequence of the bipartite dialogue between cliques which has dominated the Committee on the Application of Standards. Tripartism is only employed once problems become serious, with the governments being called on only when one side or the other seeks to shift the balance in its favour.

The Government of the Bolivarian Republic of Venezuela promotes social dialogue on the condition that it is based on a well-structured, broad, representative and inclusive tripartite approach that is free of any discrimination. The said Committee lacks all these qualities at a time when, more than ever, it should be working conscientiously, guided by the principles of legality, legitimacy, objectivity, transparency and efficiency, irrespective of any political or individual interests.

Should we not achieve this goal, then each year we will see a repetition of the scenes which took place at the 2012 session of the International Labour Conference and which clearly undermined the ILO, harming the very thing that we are called on to safeguard, the good name of the Organization. We should bear in mind that the ILO was created on the basis that all its offices and departments would operate and take decisions in a tripartite manner, representing the interests of the collective, not of individual parties.

In the view of our Government, the problem is not the right to strike as such, because this right is enshrined in, guaranteed and protected by our Constitution and by all Venezuelan labour legislation as a part of collective bargaining. The workers of Venezuela have no need for any interpretation of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), in order to be able to exercise the right to strike. The issue arising within this Organization is one of the excesses committed by those who have interpreted Convention No. 87 without a mandate to do so. Article 37(1) of the Constitution of the International Labour Organisation clearly and categorically puts forward a solution in this regard. The issue must be

referred to the International Court of Justice, so that, once and for all, the Court can interpret Convention No. 87 and issue a binding opinion in that regard. ILO officials and staff need to work effectively on this matter in a balanced and transparent way and to avoid falling victim to manipulation and becoming part of the problem rather than the solution, which lies in recourse to the International Court of Justice.

The Governing Body must adopt this approach and take the necessary measures without delay. In this regard, the Governing Body can count on the support of the Government of the Bolivarian Republic of Venezuela. Effective steps must be taken immediately to resolve this issue: if not, the governments will continue to be mere spectators in the bipartite game being played out by the cliques within the Committee on the Application of Standards. Let us not forget that the Director-General of the ILO has taken up the challenge of improving the ILO supervisory system. We offer him both encouragement and support in that regard.

Original Chinese: Mr DAI (Government, China)

The Chinese Government supports the statement made by the ASPAG delegate. The Committee on the Application of Standards is one of the most important committees in the ILO. The current report was made possible through the efforts of the tripartite constituents. The Chinese Government hopes that the Committee will be able to produce a report based on more consultations and a consensus, which will contribute to achieving the principles and the aims of this Organization.

The Chinese Government supports the ILO's standards supervisory mechanism and respects the work of the Director-General and of the Committee of Experts on the Application of Conventions and Recommendations. We hope that our tripartite constituents will be able to continue engaging in consultation and dialogue in a spirit of openness and cooperation.

Original Spanish: Mr ROSALES (Government, Argentina)

I am taking the floor on behalf of my country to discuss the serious situation that has arisen again in the Committee on the Application of Standards. As has been repeated on several occasions, in this Committee in 2012 the Committee of Experts' powers of interpretation were seriously challenged in respect of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the right to strike. I would like, once again, to reaffirm that in my country, like most countries in my region, the right to strike is guaranteed under our Constitution and is fully exercised.

As the issue had been raised in discussions at its 320th Session in March 2014, the Governing Body carried out a thorough analysis of the different positions, with a view to seeking ways of resolving the problem. The approach to be taken should therefore be based on article 37(1) of the ILO Constitution; in other words, through an intervention by the International Court of Justice.

While we are aware that there have been comments and reservations about this option, there is no other institutional approach available to help end this controversy. Accordingly, given that the Employers, Workers and Governments entrusted the Governing Body with finding the best solution, this issue should not be taken up exclusively in the Committee on the Application of Standards.

The ILO Committee on the Application of Standards is a fundamental instrument and establishes the supervisory system. We must do our utmost to preserve it and ensure full observance of the principles and values underpinning this Organization. There is no doubt that tripartism, involving consultations with, and the active participation of, States and the social partners, can lead to solutions being found to the kind of problems that have once again this year prevented the Committee from being able to complete its work successfully.

Notwithstanding the Committee's current situation and the seriousness of some of the cases handled, with the lives of men, women and children put at imminent risk, we believe that it is essential for the ILO to provide cooperation and technical assistance simply and without delay to prevent even further harm being done. Indeed, such support was even requested by the countries concerned.

With this aim in mind, my country offers its full cooperation to the Director-General and his efforts through the Governing Body to help resolve this controversy and thereby ensure that the Committee is fully functional and able to achieve its objectives.

Original Spanish: Ms DUPUY (Government, Uruguay)

I would like to refer to the comments of the representative of the International Organisation of Employers (IOE) about a Uruguayan case presented under the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), which is apparently considered to be problematic.

The Government of Uruguay would like to reiterate that the countries' legislation on collective bargaining emphasises the importance of tripartite social dialogue and provides opportunities for negotiation which, in the vast majority of cases, has led to consensual agreements being reached. This and other tools have helped us to achieve clear national economic goals, sustained economic growth since 2005, the lowest rate of unemployment in the country's history, a significant increase in formal employment and decent wages, which have in turn contributed to greater economic activity and, of course, social justice.

As the ILO knows very well, Uruguay is a democratic State governed by the rule of law, with all the requisite guarantees, both in terms of inclusive social dialogue and the possibility of legislative reforms or recourse to justice, as deemed necessary.

The Government has also kept the Office and its International Labour Standards Department, the Committee on Freedom of Association and the Committee of Experts briefed throughout the last three years. We have informed them that, after three years of consultations, which we considered to have been conducted in good faith, the results were blocked by Employer representatives. Given this impasse, the Government felt bound to reflect many of the recommendations received from the Committee on Freedom of Association and the Committee of Experts in a bill submitted to Parliament to bring in some improvements. The Government gave priority to the issue, which was duly submitted even though it was an election year. The relevant committee has already had consultations with the Labour Minister and will soon consult the social partners (employers and workers), to hear all parties and seek the best solution now through legislation.

Lastly, Uruguay once again reiterates its strong support for a robust and objective system for monitoring ILO standards.

Original Spanish: The PRESIDENT

Since there appear to be no further speakers, I am going to move to the approval of the report of the Committee on the Application of Standards.

(The speaker continues in English.)

May I take it that the Conference approves the report of the Committee on the Application of Standards as contained in *Provisional Record* No. 13, Parts One and Two? I see no objections.

(The report, as a whole, is approved.)

Before continuing with our agenda and concluding our general discussion, I should just like to take a moment to thank the Officers and the members of the Committee on the Application of Standards for their work, as well as the secretariat, which has been particularly diligent in supporting the Committee – a task which involved working very long hours, indeed occasionally throughout the entire night. Many thanks for all your efforts and I think that all the statements by the spokespersons, the Reporter and the representatives of governments and groups that took the floor will be taken into account, not only at the Conference, but also by the Governing Body and the Office, including the Director-General.

Coming to the programme of the Conference, I have a request for the floor. I understand that the Workers' delegate from Denmark, Mr Ohrt, wishes to make a statement on behalf of several Workers' delegates to the Conference in relation to article 26 of the Constitution. I shall give him the floor now, but I do not intend to open a debate on this subject.

Mr OHRT (*Worker, Denmark*)

I take the floor today to introduce a complaint under article 26 of the ILO Constitution against the Government of Qatar for widespread and systemic violation of the Forced Labour Convention, 1930 (No. 29), and the Labour Inspection Convention, 1947 (No. 81).

There is no question that the nearly 1.5 million migrant workers in Qatar are today subject to a state system that facilitates forced labour, a fact that has been confirmed recently by: the UN Special Rapporteur on the human rights of migrants; the ILO supervisory system; human rights organizations such as Human Rights Watch and Amnesty International; and major media outlets around the world. From the moment migrant workers begin the process of seeking work in Qatar, they are drawn into a highly exploitative system that facilitates forced labour by their employers, including practices such as contract substitution, procurement fees for which many take out large, high-interest loans, and passport confiscation. The *kafala* (sponsorship) system, which remains firmly in place today, prohibits workers in practice from changing jobs when subject to exploitation or leaving the country. The labour inspection system is inadequate for the enormity of the problem, and workers have no effective access to a complaints system that provides justice when their rights are violated. Indeed, workers are dying at an alarming rate in Qatar, trapped and without any right to associate and defend their own interests.

As the Government has yet to take any concrete actions to address this massive human rights crisis, we feel compelled to act. I therefore submit this complaint and call for the establishment of a commission of inquiry in Qatar without delay.

The PRESIDENT

I understand that this is a complaint of non-observance under article 26(4) of the Constitution of the ILO. It has been duly noted and it is not up to the Conference to prejudge it. It will be referred to the Officers of the Governing Body, as usual, for the appropriate action.

**PROTOCOL TO THE FORCED LABOUR
CONVENTION, 1930, RECOMMENDATION ON
SUPPLEMENTARY MEASURES FOR THE EFFECTIVE
SUPPRESSION OF FORCED LABOUR, AND
AMENDMENTS OF 2014 TO THE CODE OF THE
MARITIME LABOUR CONVENTION, 2006: SIGNING**

The PRESIDENT

I now have a pleasant task in what has become almost an ILO tradition in recent years: the signing, with the Director-General, of newly adopted instruments.

It is my pleasure to invite the Director-General, Mr Ryder, to accompany me to the desk to sign the new Protocol to the Forced Labour Convention, 1930, and the Recommendation on supplementary measures for the effective suppression of forced labour, as well as the amendments of 2014 to the Code of the Maritime Labour Convention, 2006.

(Signature of the instruments.)

The PRESIDENT

I am very proud to have put my name to these texts: the Protocol and Recommendation, which I have no doubt will prove strong and effective in the fight against forced labour, and the amendments of 2014 to the Code of the Maritime Labour Convention, 2006, which will ensure that an important Convention is up to date. Both of these matters on the agenda of this Conference are crucial.

CLOSING STATEMENTS

The PRESIDENT

It is now time for us to move to the closing ceremony. I invite my fellow Officers, in turn, to take the floor and address the Conference.

Ms MUGO (*Employer Vice-President of the Conference*)

It gives me great pleasure to take the floor in my capacity as Employer Vice-President of the 103rd Session of the Conference.

I was honoured to serve under my distinguished colleague and friend, Daniel Funes de Rioja, who has chaired the session in an outstanding manner. I would like to thank Daniel and to wish him all the best in his new capacity as President of the International Organisation of Employers.

This has been the first session operating under the reforms adopted by the Governing Body aimed at having a shorter and more productive session. I have had the privilege to chair some sessions and I would like to thank all participants for their discipline and time management. This discipline will be all the more critical as we migrate to a two-week session next year.

The 103rd Session of the Conference has seen the adoption of very important instruments and conclusions. The adoption of a Protocol and Recommendation on forced labour is an important milestone, as it will help address the implementation gaps in order to advance prevention, protection and compensation measures to effectively achieve the elimination of forced labour. I would like to take this opportunity to congratulate the Committee on Forced Labour for a job well done. Through compromise and social dialogue, the Committee was able to complete its discussions of the two instruments on time.

Yesterday, we also adopted the Conclusions of the Committee on Transitioning from the Informal Economy. As we heard during the sitting, the Committee had to work extra hard to break the stalemate on a number of questions. This is understandable as the informal economy is a very diverse issue, varying in nature from continent to continent and from country to country.

Coming up with a document that addresses the causes of informalization, the barriers to formalization and the policy options that are required to promote a gradual transition to the formal economy is no mean task and I must congratulate the Committee for reaching consensus on the key issues. Much more work will need to be done by the Office as we move towards the adoption of the final instrument next year.

It is very important that we all recognize that the global community is watching the ILO. As the world tries to move millions of people trapped in informality and poverty to formality, it is looking upon the real actors of the world of work to offer practical solutions.

As my Employer colleague from Ghana, the Employer spokesperson, pointed out, we need to make business undertakings in the informal economy more viable so that they can grow and create decent and productive jobs. Practical solutions, as proposed in points 16–18 of the Committee Conclusions, would ensure that informal economy operators have access to finance and credit, skills development and lifelong learning, markets, innovation, productivity, infrastructure and technology, among other benefits.

The discussion on informality is also closely linked to the recurrent discussion on employment. The Committee did a commendable job and I offer it my congratulations. Of particular importance here is recognition of the importance of the 2007 *Conclusions concerning the promotion of sustainable enterprises*. Enterprises create jobs and generate wealth, and it is critically important that ILO member States provide an enabling environment for their creation and development. All over the world, employers' organizations are engaged in dialogue with governments and trade unions in order to ensure that the needs of enterprises are clearly taken on board.

If I may briefly speak in my capacity as Secretary-General of Business Africa, employers in Africa have decided to confront the unemployment challenge head on. As you all know, everyone is talking about Africa as the new centre of growth. The continent has been growing on average by 5 per cent for the last decade, but increasingly the growth of many African countries has not translated into job creation or opportunities for many of Africa's young people. The question that African countries currently face is how to sustain economic growth

but at the same time accelerate the pace of job creation. As we have seen in North Africa, joblessness was responsible for the Arab Spring and has been described as a ticking time bomb.

Employers in Africa have set up an African Task Force on Employment and Employability, whose main objective is the exchange of ideas on how to bridge the gap between education, training and the needs of the job market and how to boost economic sectors that are job rich, such as agriculture.

I wish to congratulate the Credentials Committee for a job well done in making sure that, during the nomination of delegates to the Conference, member States abided by article 3(5), of the ILO Constitution. The foundation of this Organization is based on respect for the autonomy of groups. Employers were concerned that an interim administrator appointed by the judicial authorities attended the session as the Employers' delegate of Togo. We must not let this happen, for we risk going against the principles on which our Organization stands. I would like to congratulate the Credentials Committee for upholding those principles in its conclusions.

The Committee has drawn our attention to the important issue of gender balance, which needs attention. As the only woman among the Vice-Presidents of the Conference, I speak on behalf of many women delegates when I appeal to member States to pay special attention to this issue this year and in future years.

Finally, we need to look at ways of overcoming the structural problems related to the functioning of the Committee on the Application of Standards. Different perspectives and opinions on the implementation of ILO Conventions should be properly reflected in the conclusions. Reinforcing the objectivity and transparency in the process of selecting the list of cases is also necessary. Let us see this as an opportunity to strengthen the credibility of the efficiency of the ILO supervisory system.

Mr SAKURADA (*Worker Vice-President of the Conference*)

It has been a great pleasure and honour for me to have been elected Vice-President of the 103rd Session of the International Labour Conference. I would like to express my sincere thanks to the Workers' delegates for the trust they have placed in me.

I would also like to congratulate the President of the Conference, Mr Funes de Rioja from Argentina, the Government Vice-President, Mr Alexandris from Greece, and the Employer Vice-President, Ms Mugo from Kenya, for their excellent and fruitful cooperation.

Allow me briefly to address the various subjects discussed at our session this year. Let me start with the work of the Committee on the Application of Standards. The Committee met this year under difficult circumstances. Following the failure of the Committee to fulfil its mandate in 2012, the Workers last year made a one-time concession, in order to allow the Committee to carry out its work, by agreeing to include a sentence called for by the Employers' on the right to strike in the conclusions of cases related to the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), because of the differing views on the interpretation of the experts.

In the meantime, however, the Governing Body achieved significant progress, in particular at its

320th Session, in March 2014, where we all unanimously agreed on the mandate of the experts.

Workers came to the 103rd Session of the Conference in a spirit of constructive engagement. It is thus with deep concern that the Workers heard Employers stating that they expected the one-time concession of 2013 to be repeated this year and, moreover, stating that they were turning their attention to other Conventions, including the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), the Employment Policy Convention, 1964 (No. 122), the Minimum Wage Fixing Convention, 1970 (No. 131), and the Termination of Employment Convention, 1982 (No. 158).

It is an unfortunate and sad day for this Organization when we all have to witness tripartism and dialogue under attack. The time has now come to use the tools provided by the ILO Constitution and to refer the issue of the right to strike to the International Court of Justice.

Let me now turn to the many positive results of the Conference. The Committee on Forced Labour has done an excellent job and we are pleased that yesterday we were able to adopt the Protocol and accompanying Recommendation, which update one of the fundamental Conventions of the ILO. We sincerely hope that these two instruments will change the lives of the 21 million workers estimated to be in forced labour today, while US\$150 billion in annual profits are being generated at their expense.

The Protocol and Recommendation establish the link between forced labour and the phenomenon of human trafficking. They will facilitate effective coordination at all levels regarding human trafficking and also provide detailed guidance on how to address modern forms of forced labour.

These instruments apply the UN Guiding Principles on Business and Human Rights and significantly strengthen the regulatory framework on recruitment and employment agencies, as well as other specific prevention, protection and remedy measures.

In short, these instruments allow us to take the fight against forced labour into the twenty-first century and adopt strategies to eradicate forced labour from our global economy more effectively. We are hoping for the wide and rapid ratification of the Protocol and effective implementation along the lines of the Recommendation to end forced labour once and for all.

The Committee on Transitioning from the Informal Economy had a good first discussion this year. The vast majority of workers who undertake economic activities in the informal economy do not do so by choice, but because there are no decent jobs available. An effective international instrument has the potential to lift millions of people out of poverty and help empower workers in the informal economy.

The discussion in the Committee has now set the framework for drafting an instrument in 2015 that will provide guidance to member States and the social partners on a comprehensive and practical agenda to transform informal economy activities into formal economic activities. It covers the economic, social and legal issues that affect the informal economy and focuses on governance, workers' rights and employment relationships. We look forward to the second part of the discussion next year with a view to adopting a strong Recommendation.

Last but not least, the Committee for the Recurrent Discussion on Employment has provided us with a comprehensive and ambitious policy framework for freely chosen, full and productive employment and decent work.

As governments, social partners and the ILO, we all need to step up our efforts to address the severe unemployment crisis and provide decent jobs for all by implementing this framework in each of our countries, based on social dialogue and with the involvement of all the relevant ministries.

Unfortunately, as we have not been able to make a real difference in the last four years, a political will to do so is going to be critical. The work programme for the ILO is ambitious and we look forward to the implementation of the various items we agreed upon, in particular the establishment of a voluntary peer review mechanism on national employment policies; analytical work on economic, tax and industrial policies impacting on employment and inequality; assistance and capacity building to constituents for the implementation of the framework at the national level; and last but not least, efforts to address job insecurity.

We also look forward to the promotion by the Office of the comprehensive policy framework at the international level, with the G20 and the International Monetary Fund (IMF) in particular.

Let me conclude by thanking the Secretary-General of the Conference, the ILO staff and the interpreters, who all worked tirelessly to ensure the success of this Conference, as well as my Worker colleagues who did an excellent job in the various committees.

Mr ALEXANDRIS (*Government Vice-President of the Conference*)

As Government Vice-President of the Conference, it is an honour for me and for the Government of my country, Greece, to say a few words regarding the Conference. Let me start with my first and perhaps strongest impression. I gather from the report of the Credentials Committee that, this year, 5,254 persons were accredited to the Conference. Not a record perhaps, but nevertheless a figure that shows the interest that the Conference generates. Aside from the interest in the topics on the agenda, we had the visits, during the World of Work Summit, of two Prime Ministers, of Jordan and of Mongolia, as well as a message of support from His Holiness Pope Francis.

The International Labour Conference remains a unique Conference, especially under the challenging economic and social circumstances faced by the world today. It brings together hundreds of people from all over the world and from different social strata and backgrounds. They are called upon, in a tripartite context, to agree to multilateral solutions on diverse and pressing issues, and so they did this year too.

Vast international gatherings like the International Labour Conference require correspondingly enormous amounts of organization and preparation, including the setting up of the agenda itself. The relevance of the agenda of the Conference and the issues that have been addressed are of universal importance and touch our everyday lives.

The question of forced labour is, unfortunately, a scourge that is still all too prevalent in modern times. By the same token, issues surrounding formalizing the economy constitute an essential task

that must be taken up urgently by governments across the world, both in developing and developed countries. Concerning the pressing discussion of employment, as the Director-General pointed out in his opening statement to the World of Work Summit, around 200 million new jobs will be needed over the next five years, simply to keep pace with the growing working-age population in emerging and developing countries. With record-levels of unemployment in many regions of the world, what subject could be more important or pertinent?

The Director-General's Report *Fair migration: Setting an ILO agenda* also covers a question that requires the serious attention of countries of origin and of destination. The economic and financial crisis, coupled with political and social turmoil in many regions of the world, has increased the flows of migrants, as people are forced to leave their native homes because of a lack of any opportunity to earn a decent livelihood in a safe environment. I felt that many contributions and much information were provided on this vexing and multifaceted question in the general discussion in the plenary. I am sure that the Director-General will take full note of this when setting the strategy of the ILO, which has an important role to play in counselling governments in this field. The Prime Minister of the Hashemite Kingdom of Jordan also spoke eloquently on this issue, which affects his country for various reasons.

Looking at the work of the committees, I should like to congratulate, as the other Vice-Presidents have done, the Committee on Forced Labour. The Protocol to the Forced Labour Convention, 1930, and the accompanying Recommendation were adopted by record vote yesterday, receiving whole-hearted support. It is, therefore, not surprising that everyone I have spoken to has responded positively to these two crucial instruments. Forced labour is a global challenge and concern. The ILO has made abundantly clear its belief that labour is not a commodity and, of course, the Forced Labour Convention, 1930 (No. 29), is one of the Organization's fundamental texts.

I understand that there was very strong tripartite debate throughout the discussion in this Committee, with all issues being placed on the table before the decision was taken and, when it was taken, it was by consensus. The task was indeed an arduous one, but, all the same, I believe that the resulting choice of instruments, a Protocol and a Recommendation, are tools that can be used to move forward towards the effective elimination of forced labour. Convention No. 29 was already a successful instrument; now it will be even more so. I urge all governments to ratify these two texts as early as possible.

The Committee on Transitioning from the Informal Economy also deserves our gratitude for its hard work. Once again, the level of tripartite participation was exemplary. The report provided a valuable source of information and experience, and reflects the strong commitment and determination of all three groups to take up the subject seriously. Naturally, the informal economy differs greatly from one region to another. As a result, in order to achieve the sustainable enterprise and employment that, I must emphasize, can only come with formality, we must seek innovative solutions taking into account the diversity and the idiosyncrasies of given situations and circumstances. I feel the Committee has taken up the task set by the Conference, albeit ambitious, and laid a firm foundation for the second

discussion next year, which I hope will result in the adoption of a Recommendation.

The Committee for the Recurrent Discussion on Employment also enjoyed lively debates, again, with strong tripartite involvement, on another subject central to the ILO's work. This was the second discussion under the follow-up to the Declaration on Social Justice for a Fair Globalization of 2008 on employment and the conclusions build on the basis provided by the first discussion. Broad agreement was expressed concerning the need for a comprehensive policy framework and proactive employment-centred inclusive growth strategies at both the global and the national levels.

There is no politician in the world who underestimates the importance of employment. The Committee's conclusions are intended to give guidance to the ILO, but also to member States and their governments. I invite you to give the appropriate weight and importance to these conclusions by taking them back to your home administrations and putting them into effect.

Regrettably, the Committee on the Application of Standards has encountered difficulties in its functioning in recent years and its wide-ranging discussions this year bore witness to the persistent problems. In particular, for the second time since 2012, the Committee was not in a position to complete its work. The Director-General has been mandated by the Governing Body to rapidly find solutions to the challenges surrounding the ILO's supervisory system and I am confident that all three groups will play a part in achieving this goal.

These are my impressions of the Conference. I have benefited from the support of my fellow Officers of the Conference, the Employer Vice-President Ms Mugo, the Worker Vice-President Mr Sakurada and the President himself, Mr Funes de Rioja. I am grateful to them all, as well as to the secretariat, which has done everything to help me in my new tasks. I am proud to have been of service to the Conference.

The PRESIDENT

Ambassador Alexandris, thank you for your intervention. It is now my privilege and pleasure to give the floor to the Secretary-General of the Conference, the Director-General of the Office, Mr Guy Ryder.

The SECRETARY-GENERAL OF THE CONFERENCE

As we approach the end of the 103rd Session of the International Labour Conference, I think it is fitting that we take this moment to reflect on the work that we have done and to draw from the experience of these last three weeks some general messages that can serve us in the future.

The final tally of participants who actually registered at the Conference stands at 4,457, from 165 of the ILO's member States, and there were 298 plenary speeches delivered. I think, therefore, that we should be in no doubt about the significance of our Conference. There is no other place like it and there is no comparable capacity to convene the world of work and its tripartite actors. That remains, as it has always been, remarkable and an asset that our Organization must jealously preserve even, or especially, as we move forward in the process of Conference reform as of next year.

In my opening remarks I said that the three criteria for measuring the success of our Conference

would be that we must discuss the right issues, that we organize our work efficiently and that we produce results. So how does this session of the Conference stand up against those benchmarks?

Firstly, I think that we can all agree that we have been dealing here with an agenda that really matters and we have all seen, and you are no doubt all now feeling, the effects of an extraordinary amount of hard work, a real demonstration of staying power as our Conference committees have grappled with issues which are difficult but which are important, precisely because they are difficult. In terms of efficiency, I have to say that I believe that we have also done well.

Mr President, with your team of Vice-Presidents you have achieved with your customary elegance that elusive goal of making the plenary run on time, without bruising the sensitivity of delegates excessively. Committees were chaired with skill and with professionalism, and you will allow me, I hope, to express my own pride in a Conference secretariat that made sure that you got the room, you got the documents and you got the interpretation that you needed to get your jobs done, and that they combined that hard work with good humour throughout. I want to thank them.

We will, as always, of course, analyse the experience of this Conference and draw the lessons learned as we prepare for a two-week session of the Conference next year. Obviously your feedback will be extremely useful in that process.

Then the third yardstick, the most important, what about the results that we have achieved? President, I believe that this Conference session, the one that you have led, will be remembered above all for the adoption, by an overwhelming majority, of the Protocol to the Forced Labour Convention, 1930, and its accompanying Recommendation. It is the fruit of our collective determination to put an end to an abomination which still afflicts our world of work and to free its 21 million victims. It is a demonstration of our capacity to adopt international labour standards, to meet real needs, and in this case to supplement our means to defend and promote fundamental principles and rights at work. As you said at the moment of adoption, President, with this Protocol we are giving a very clear answer to global society.

The task of opening the road from the informal to the formal economy has indeed, as we might have expected, proved formidable. It is not just the magnitude of the challenge, but the complexity of the phenomenon of informality and the very different forms that it takes around the world that we have had to confront. As the Conference worked hard on very basic questions of concept and of definition, delegates will, I feel sure, have been conscious of the ground-breaking nature of what we have been doing, and for my part I was impressed by the fact that representatives of no less than 110 countries participated, and participated actively and energetically in the Committee's work.

I think that shows that this transition truly matters to us all, no matter from where we come, and listening to what was said in plenary yesterday left me very confident that the seeds planted this year will allow us to harvest a valuable and much-needed Recommendation at next year's session of the Conference.

Our recurrent item discussion, which was on employment this year, under the terms of the follow-up

to the 2008 Declaration on Social Justice for a Fair Globalization, moved remarkably smoothly to a successful conclusion, and I am encouraged by it for two quite distinct reasons.

The first reason is that the experience this year does seem to indicate that we are learning, we are learning from past experience with these recurrent item discussions, and we are finding the right way for them to meet the objectives set in the 2008 Declaration, and in particular that delicate balance between policy discussion, on the one hand, and internal ILO guidance issues, on the other. This matters greatly because at the current moment we are moving towards the evaluation of the impact of the Declaration that is on the agenda of the 105th Session (2016) of the Conference.

The second reason is that we have produced a comprehensive policy framework for the ILO on the all-important strategic objective of employment. It has strong tripartite endorsement and it will serve us very well in the future.

Let me as well express appreciation to delegates for their very substantive contribution to the discussion of my own Reports to the Conference. Its aim was to elicit from you, your reactions and your views on the usefulness of constructing an ILO agenda for fair migration, on what such an agenda might look like and how it should fit in with the activities of our sister organizations in a multilateral system. I want to thank you for rising to that challenge. What was clear from the debates was that the issue of labour migration resonates very clearly with you all, and that realizing the undoubted economic potential of migration depends very heavily on making it fair, and that means adopting the rights-based approach which is still more frequently talked about than it is applied.

So let me say simply at this stage, that this Conference has transmitted a very strong message to our own Governing Body which in November will be called upon to begin the job of determining an ILO Strategic Policy Framework from 2016 onwards.

In the light of the discussion which has taken place, my intention will be to include an agenda for fair migration in my proposals to the Governing Body. If this finds favour, we will need to draw on your inputs to this Conference discussion so as to identify the key areas for action. I will not anticipate that debate now, but would simply remind you of some of the issues which emerged from your contributions with particular clarity: fair recruitment processes, for example; the design of temporary migration schemes; a tripartite forum for migration; the effectiveness of the ILO's existing normative framework on migration; and policy coherence in the international system on migration. These are some of the issues and we will need to return to them and to others.

In addition to migration issues, our plenary heard as well repeated calls for continued and intensified ILO support to bring about improvements in the situation of workers of the occupied Arab territories. This is in the light of the very disturbing developments outlined in my Report on the subject.

I simply want to assure the Conference, as I was able to assure the Palestinian tripartite representation here at the Conference, with whom I was able to meet, that the ILO will do all that it can to play the role that it must, notwithstanding the difficulties that continue to prevail, and I take this as a respon-

sibility that flows naturally and directly from our mandate for social justice.

Our Conference received important messages from Prime Minister Ensour of the Hashemite Kingdom of Jordan and from Prime Minister Al-tankhuyag of Mongolia, both within the framework of what I think was a successful World of Work Summit that took place last Monday. We thank them both. We thank them for their visit and we thank them as well for their testimony of the centrality of the Decent Work Agenda to the challenges being taken up in their own countries.

In the same vein, His Holiness Pope Francis sent us all a powerful message, from which I cite one short quotation. He said, he reminded us that, and I quote: "Future sustainable development goals must therefore be formulated and carried out with generosity and courage so that they can have a real impact on the structural causes of poverty and hunger, attain more substantial results in protecting the environment, ensure decent work for all and provide appropriate protection for the family."

This is an important day. It is the World Day Against Child Labour, and that being so, let me recall what Prime Minister Ensour told us – that 70 per cent of child labourers in his country, Jordan, are Syrian refugees. It is also an important day because it is the opening day of the World Cup in Brazil, so let me join with Pope Francis in raising the Red Card to Child Labour. We do not want to see too many of these in Brazil, but we do want to see child labour sent off, once and for all, from our field of the world of work.

I hope it will not try your patience beyond its limits if I close by reminding the Conference again of another remark that I made at the opening when I spoke to you all of the twin responsibilities of delegates coming to our Conference.

The first was the responsibility to represent the views and the interests of those that you represent. The second responsibility is to come together with a genuine commitment to forge tripartite consensus from these different interests. If this combination of responsibilities is not assumed and not assumed from the outset, then the ILO cannot and will not work as we want it to work and as it should work.

I made those remarks with this moment already in my mind and they give me the opportunity to say the following: that for the most part, the exercise of these twin responsibilities has been such as to produce the remarkable results of which we know this Conference to be capable; a Protocol, which offers hope to millions who are victims of the cruellest of abuses; Conclusions, which can open the way to basic protection that is offered by formality at work; a framework for the ILO to deliver its contribution to overcoming the defining scourge of our time – the crisis of mass unemployment. These are the objectives which bring thousands of delegates to Geneva, to which they dedicate their energy, their talent and their commitment, and their capacity for representation and consensus. I think all of us can take justifiable pride in all of that, but it is unfortunate that these same responsibilities have not been exercised or have not been sufficiently exercised to permit the Conference to produce comparable, positive results in the application of standards.

The fact that the Conference has only been in a position to adopt conclusions on six individual cases in this area and has made no progress in overcoming known and serious differences in respect of

the application of standards, stands, let us face it, as a major failure in which we all share. I want to join with others in expressing deep regrets and profound concern about this situation, and I think we have to be very clear that the expectations and the commitments made at the Governing Body last March have not been met. Nobody's interests have been served by the continuing differences and stalemates to which we have borne witness, and if anybody thinks that they have, I believe they are wrong. It is more appropriate to have in mind the interests of those, and they are millions, who would have benefited from the adoption of conclusions on matters which have real importance and those millions who might justifiably feel let down by what has happened here. It is their judgement on our efforts, which is perhaps the most telling.

So let me say the obvious, I have said it before and I may need to say it again, that the ILO must have a strong, authoritative standards system enjoying full tripartite support. Nobody has, to my knowledge, dissented from that view. But not enough has been done to act on that expressed commitment, and I think that needs to change, I think it needs to change now. My own efforts and those of my colleagues in the Office as a whole will be directed, as they must and above all else, to facilitating progress in this area and we can start tomorrow, initially in preparation of the crucial Governing Body discussion in November. We will consult everybody widely, we will be energetic, we will be creative, we will be responsible and we will be responsive, but ultimately the solutions lie with you, our tripartite constituents, nobody else, so I want to appeal to each and every one of you, to put your genuine efforts to the task of ensuring that we do not find ourselves in the same or similar circumstances at this point next year.

Let me close by recalling that it is customary for the Secretary-General to end his remarks by expressing thanks to the person who has presided over the Conference and to the team of Vice-Presidents. It is customary to convey appreciation for the efficiency, the courtesy and the skill with which the Conference proceedings have been conducted. I want to do all of those things and in so doing I am sure that I translate to you the sentiments of all the delegates in the room. But on this particular occasion, I think something more needs to be said beyond the customary niceties because it is exceptional for an Employer representative to be elected to the Presidency of the Conference. Your selection and the way that you have led us does honour to the Employers' group, and since this Conference is a culmination of no less than 38 years of your attendance and your outstanding contribution to the work of our Organization, your Presidency is also a profound tribute to the manner in which you have marked the history of the ILO. So, dear Daniel, as our President, as a leader of the Employers in this house for so many years, as a colleague and, if you will allow me, as a friend, I want to thank you on behalf of everybody here. Thank you very much.

Original Spanish: The PRESIDENT

And now, with your permission, I shall make a few closing remarks of my own.

As we conclude the activities of this session of the Conference, which you have given me the honour of presiding over, I would like to take this opportunity to convey not just my impressions concerning

the content of the agenda and the conclusions, but also to reflect upon the future.

In particular, and as I said before, I believe that we have dealt with topics of great relevance to the future of the Organization. We have had debates and produced conclusions which will undoubtedly help the Governing Body and the Office to construct specific programmes of action, paying special attention to the guidance provided by you, the constituents.

It is no coincidence that we have been dealing simultaneously with topics which are interlinked, such as migration, employment and making employment sustainable, the transition to the formal economy and the effective eradication of all forms of forced labour. The responses proposed by the Conference to these issues will undoubtedly create a virtuous circle promoting human dignity and sustainable development with social progress. This is the kind of globalization to which we all aspire, and we cannot conceive of any other form that does not respect human dignity.

These matters are pertinent not only because of their content, but also their immediate applicability. The international community is awaiting a response and thus the Conference is acting accordingly by providing concrete and effective answers.

The Report of the Director-General, *Fair migration: Setting an ILO agenda*, sent a very direct message to trigger interaction with the tripartite constituents, which produced almost 300 responses. As the Director-General stated, those will feed into the Office's strategy in the future.

The reaction has been not only immediate, but also effective. It has prompted this dialogue, which is such an important part of the Conference. You have all taken part in the debate, rising to the challenge to form opinions, share experiences and provide guidance.

Furthermore, finding solutions for the huge challenge of creating jobs for the younger generation is a matter of urgency, as was underlined in the message from His Holiness Pope Francis. He said that this is "particularly disheartening for unemployed young people, who can all too easily become demoralized, losing their sense of worth, feeling isolated from society. In working for greater opportunities for employment, we affirm the conviction that it is only 'through free, creative, participatory and mutually supportive labour that human beings express and enhance the dignity of their lives'."

The Appendix to the Report of the Director-General, *The situation of workers of the occupied Arab territories*, unfortunately highlights the difficult conditions prevailing there. As the Prime Minister of Jordan, Mr Abdullah Ensour, stated, the Report notes that there is increasing pessimism because of a lack of progress in the peace process. I believe that we must unite our voices and our efforts and support the Office's work on this matter.

On the subject of informality and the transition to the formal economy, it is clear that we are facing a wide-ranging and complex challenge, which has elicited interest and prompted commitment.

The once blurred issue of the informal world or the shadow economy has now become an integral part of the ILO agenda. The path towards formalization and the necessary actions to achieve this objective are undoubtedly vital steps on the route to development, particularly for those of us from the de-

veloping world. Development cannot be achieved unless we find solutions to address informality.

And as I have said repeatedly, there can be no sustainable development without decent work and sustainable enterprises. This link is now part of the ILO agenda as well. It is one of the responsibilities of the constituents: their ability to translate this political message into specific action which can guide the process of the transition to the formal economy, while respecting regional and national circumstances, and to contribute to the definition of effective policies to achieve goals and produce measurable results. This Conference has commenced that work, and the next session will be of fundamental importance. In both cases, cooperation is of paramount importance.

With regard to employment, the ILO agenda now overlaps with that of the G20. The interaction between the ILO and the G20, and between the social partners and the G20, highlights the relevance of the need to create employment and to close the current education and vocational training gap.

I would like to take this opportunity to echo the Prime Minister of Mongolia, Mr Noroviin Altankhuyag, in expressing my thanks to the ILO for having organized the World of Work Summit. It produced a very useful and highly enriching discussion here, and the question and answer session with delegates will, I am sure, strengthen the ILO's own work and that of the international forums in which it participates.

The joint decision to place the Protocol to the Forced Labour Convention, 1930, in a new framework addressing the new circumstances which offend human dignity and run counter to any transparent and honest labour relations system resulted in the adoption of the instrument, which will be welcomed from both a normative and an ethical perspective. I would like to convey to my colleagues, who honoured me by appointing me President, that it has been a matter of great satisfaction for me to have been able to sign this Protocol and the related Recommendation, together with the Director-General.

By addressing the topic of human trafficking, the ILO is responding to the appeal of the Pope, himself reflecting worldwide concern, to provide a response which highlights that "human trafficking is a scourge, a crime against the whole of humanity. It is time to join forces and work together to free its victims and to eradicate this crime that affects all of us, from individual families to the worldwide community."

It is for this reason that we urge member States to ratify the Protocol forthwith so that the obligations arising from this basic principle are embodied within the framework of fundamental rights at work. In particular, we would like to draw your attention to Article 6, which requires that the necessary measures to apply the Protocol be determined by national laws or regulations or the competent authority, after consultation with the organizations of employers and workers concerned.

Once again, tripartism and social dialogue are achieving results in reaching effective agreements in the world of work, and the strength of consensus is proof of the high degree of political significance of the ILO's mandate. The Conference derives its authority not just from its constitutional mandate, but also – and this is something I myself strongly believe in – from tripartism.

Moreover, I am quite sure that the reform of the Governing Body and the Conference, and the strategic redesign of the content of discussions, has placed the ILO at the forefront of progress, in order to respond effectively and with indisputable legitimacy to globalization. I include in such progress the procedure implemented for the adoption of the amendments of 2014 to the Code of the Maritime Labour Convention, 2006, as a means of improving and updating our instruments.

In the light of these developments, the ILO should commit to an active role in the multilateral system as an important means of advancing its specific agenda on migration, and that of the system as a whole.

In its work on migration, the ILO should ensure that it highlights the role of tripartism, embodies it in all activities and promotes it in the work of others.

In addition, and in line with one of the general objectives of the reform process in the Organization, the ILO will need to reinforce its statistics and knowledge base in respect of migration. That base can then be used as a foundation for improved research and analytical work, which in turn should contribute to improved, evidence-based policy advice.

Now please allow me to share with you some brief thoughts on the outcome of the Committee of the Application of Standards.

I remain convinced of the relevance of the ILO's standards supervisory machinery, as well as of the relevance of the normative role of our house, which clearly differentiates the ILO from other multilateral institutions. The ILO has a unique and effective system to monitor member States' compliance with international labour standards.

The effectiveness of the system derives from the diversity of its supervisory mechanisms, the gradual, combined approach, and especially its function as a moral sanction, including the application of article 33 of the ILO Constitution, which provides for concrete and effective measures to secure compliance.

Clearly, there are some aspects of the system that have been called into question, justifying the establishment of special procedures within the framework of the Governing Body, in close cooperation with the Office.

Each part of the process has crucial importance and should be maintained, as difficulties arising from the adoption of the list of individual cases and the way in which these cases are discussed, and particularly the drafting of conclusions of such debates, require the Governing Body and the Office to make further efforts to find the path to consensus.

I was a member of the Committee on the Application of Standards for many years and spent over 20 years serving on the Governing Body. Nothing is easy, but nor is it impossible. Our work together, which allowed us to find a way forward with regard to the problems arising from the experts' mandate, is proof of that. It is not a question of anybody giving in, but of reconciling differing positions. The tripartite mandate of the Governing Body makes this possible. It is my firm belief that the joint responsibility of the constituents means that tripartism is the only way forward. Consensus is not the product of apathy, disinterest, lack of conviction or even complacency; it is construction through dialogue, the participants' responsible contribution and their

will to find a common path. I sincerely hope that today's frustration will be transformed into opportunity tomorrow.

Finally, I would like to congratulate my fellow Officers of the Conference, Ambassador Alexandris from Greece, Vice-President of the Government group; Mr Sakurada from Japan, our Worker Vice-President; and Ms Mugo from Kenya, Employer Vice-President and the only woman among the Officers. Allow me to say that they have been excellent colleagues and working together in close cooperation with them has proven to be extremely positive. I sincerely thank them for the support they have given to me as President of this Conference.

I would like to thank the Director-General of this house, Mr Ryder, for his ongoing support and friendship. I would also like to congratulate him for the excellent work done by his secretariat, which enables us to conduct our work during the Conference and to achieve such important outcomes. As you mentioned, Guy, you have good reason to be proud of your team.

I would also like to thank the Clerk of the Conference, Mr Ramos, as well as Mr Perrin, Director of the Official Meetings, Documentation and Relations Department.

I also want to thank especially Mr Vines, Deputy Director-General for Management and Reform.

Their support in the various aspects of my work, both at the Conference and as a member of the Governing Body, has been very valuable. And as for my colleagues, the spokespersons of the Workers' group, Mr Cortebeek, and the Employers' group, Mr Rønneest, many thanks to you for your friendship throughout the years, and to the Chairperson of the Governing Body as well.

I would also like to say a special word about my direct colleagues, Mr Yuren, Assistant to the President, and Ms Ruefli, Secretary to the President. I would also like to thank all the translators and interpreters for the services that they have provided, especially given someone who jumps from Spanglish to Spanish and then on to French, or some such.

I would like to end in the same way as I began, in echoing the first Argentinian who, in 1928, occupied this seat, Mr Saavedra Lamas, who said that there is nothing in the world superior to the secular energy which man draws from within and which, when it is spread throughout the world, is called truth, justice and law, giving rise to the fundamental virtues which are ultimately the mainstay of civilization.

The SECRETARY-GENERAL OF THE CONFERENCE

At the end of our work, it is one of the very, very nice traditions of this Conference that we present to the President, as a symbol of his or her authority, but also as a token of our great gratitude and respect for everything that you have done, this, the gavel of the Conference.

Original Spanish: The PRESIDENT

The work of the 103rd Session of the International Labour Conference has now been concluded. This brings to an end my term as a member of the Governing Body and it is the last time that I shall be attending the Conference. I would like to thank each and every one of you for your contributions to our work, for the way in which you have interacted with me and respected the Officers of the Conference,

and for the outcomes achieved, for better or for worse. I hope that the positive results can be built on and that the divergences and difficulties can be overcome.

And with this gavel, which the Secretary-General has so kindly presented to me, I declare the

103rd Session of the International Labour Conference closed.

(The Conference adjourned sine die at 1.35 p.m.)

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