
Committee on the Application of Standards

PART ONE

DRAFT GENERAL REPORT

A. Introduction

1. In accordance with article 7 of the Standing Orders, the Conference set up a Committee to consider and report on item III on the agenda: “Information and reports on the application of Conventions and Recommendations”. The Committee was composed of 228 members (115 Government members, eight Employer members and 105 Worker members). It also included 11 Government deputy members, 81 Employer deputy members, and 166 Worker deputy members. In addition, 33 international non-governmental organizations were represented by observers.¹

2. The Committee elected its Officers as follows:

Chairperson: Mr Rorix Núñez Morales (Government member, Panama)

Vice-Chairpersons: Ms Sonia Regenbogen (Employer member, Canada) and
Mr Marc Leemans (Worker member, Belgium)

Reporter: Mr Patrick Rochford (Government member, Ireland)

3. The Committee held 17 sittings.

4. In accordance with its terms of reference, the Committee considered: (i) the reports supplied under articles 22 and 35 of the Constitution on the application of ratified Conventions;

¹ For the initial composition of the Committee, refer to *Provisional Record* No. 2. For the list of international non-governmental organizations, see *Provisional Record* No. 1A.

(ii) the reports requested by the Governing Body under article 19 of the Constitution on the following instruments concerning working time: the Hours of Work (Industry) Convention, 1919 (No. 1); the Weekly Rest (Industry) Convention, 1921 (No. 14); the Hours of Work (Commerce and Offices) Convention, 1930 (No. 30); the Forty-Hour Week Convention, 1935 (No. 47); the Night Work (Women) Convention (Revised), 1948 (No. 89); the Protocol of 1990 to the Night Work (Women) Convention (Revised), 1948; the Weekly Rest (Commerce and Offices) Convention, 1957 (No. 106); the Holidays with Pay Convention (Revised), 1970 (No. 132); the Night Work Convention, 1990 (No. 171); the Part-Time Work Convention, 1994 (No. 175); the Night Work of Women (Agriculture) Recommendation, 1921 (No. 13); the Holidays with Pay Recommendation, 1954 (No. 98); the Weekly Rest (Commerce and Offices) Recommendation, 1957 (No. 103); the Reduction of Hours of Work Recommendation, 1962 (No. 116); the Night Work Recommendation, 1990 (No. 178); and the Part-Time Work Recommendation, 1994 (No. 182); and (iii) the information supplied under article 19 of the Constitution on the submission to the competent authorities of Conventions and Recommendations adopted by the Conference. ²

Opening sitting

5. The Chairperson said that he was honoured to preside over this Committee, which was a cornerstone of the regular supervisory system of the International Labour Organization (ILO). It was a forum for tripartite dialogue in which the Organization examined the application of international labour standards and the functioning of the supervisory system. The conclusions adopted by the Committee and the technical work of the Committee of Experts on the Application of Conventions and Recommendations, together with the technical assistance of the Office, were essential tools to support member States in the implementation of the international labour standards. The Chairperson trusted that, in the

² Report III to the International Labour Conference – Part A: Report of the Committee of Experts on the Application of Conventions and Recommendations; Part B: General Survey.

course of the two-week session of the Conference, the Committee would be able to work efficiently, to respond, in a spirit of constructive dialogue, to the mandates of the Organization.

6. The Worker members emphasized that the Committee's task of supervising the application of standards served the objective of promoting social justice which lay behind the foundations of the ILO. The Worker members indicated their wish to do everything to ensure that the Committee's work had a real impact on the cases of serious violations of the international labour Conventions, which had had disastrous consequences on the economic and social situations of individuals and communities. The desired impact of the work depended as much on the Committee's working methods as on the involvement of the three groups of which it was composed, and on the Office. The conclusions adopted by the Committee were admittedly not legally binding, but enabled the greatest number of States to participate in the discussions. Those conclusions also opened up a dialogue which would have been difficult at the national level. While the Worker members were frustrated with, year after year, having to re-examine certain cases without any notable progress, they remained convinced that tripartite dialogue within the Committee offered the best guarantee for the promotion of the Organization's instruments. The Worker members hoped that all those involved would adapt their way of working with the joint objective of strengthening the mission of supervising the standards referred to the Committee and, through this fundamental mission, maintaining social peace, and combating injustices, poverty and deprivation.

7. The Employer members noted that the Conference Committee was at the centre stage of the regular ILO standards supervisory system. While the report of the Committee of Experts was the basis for the work of the Conference Committee, the members of the Conference Committee contributed to the final supervisory assessment as reflected in the conclusions, with their own legal evaluation, knowledge of latest developments and experience concerning practical, feasible and sustainable solutions. The Employer members emphasized

the importance of constant and direct dialogue between the Conference Committee and the Committee of Experts, not only to strengthen constituents' understanding of standards-related requirements, but also to ensure that the Committee of Experts fully grasped the realities and needs of the users of the supervisory system.

- 8.** At the election of the Officers of the Conference Committee, the Government member of the Bolivarian Republic of Venezuela indicated that he did not support the candidacy of the representative of the Government of Panama for the post of Chairperson of the Committee, as it did not have the consensus of the Americas Group (GRUA). Since the Government of Panama, as a member of the Lima Group, had adopted the approach of not supporting any Venezuelan candidacy for regional and international mechanisms and organizations, his Government, in accordance with the principle of reciprocity, would not be supporting any candidacy from any countries in the Lima Group. In particular, it would not be supporting the candidacy of the Government of Panama, which should have been agreed by consensus in the plenary of GRUA, as that was a fundamental rule governing this group.
- 9.** The Government member of Paraguay, speaking on behalf of the Group of Countries of Latin America and the Caribbean (GRULAC), indicated that the group had been leading consultations regarding the chairmanship of the Committee for several months and recalled that, in 2015, it had committed to a rotation for the functions of the Chairperson and Reporter of the Committee. In that connection, GRULAC had fulfilled its role in the coordination of formal and informal meetings.
- 10.** The Government member of the Republic of Korea, speaking on behalf of the Government group, indicated that the group had already noted the reservations as expressed by the Government member of the Bolivarian Republic of Venezuela, and the explanations provided by GRULAC. He explained that consultations for the nomination of the Officers of the Committee had been carried out in the Government group since January 2018, and

confirmed his group's support of the nomination of the Government member of Panama as Chairperson of the Committee.

11. The Government member of Brazil expressed full support for the candidacy of the Government member of Panama to chair the meeting of the Committee.
12. The Government member of Mexico, echoing the information presented by the representative of GRULAC, indicated that his Government had participated in the consultations mentioned where it had supported the candidacy of the Government of Panama to the Chairperson of the Committee. He reaffirmed his support for that candidacy.

Work of the Committee

13. During its opening sitting, the Committee adopted document D.1, which set out the manner in which the work of the Committee was carried out³ and, on that basis, the Committee considered its working methods, as reflected below.
14. In accordance with its usual practice, the Committee began its work with a discussion on general aspects of the application of Conventions and Recommendations and the discharge by member States of standards-related obligations under the ILO Constitution. In this general discussion, reference was made to Part One of the report of the Committee of Experts on the Application of Conventions and Recommendations. A summary of the general discussion is found under relevant headings in sections A and B of Part One of this report.
15. The Committee then examined the General Survey concerning working-time instruments. Its discussion is summarized in section C of Part One of this report.
16. Following these discussions, the Committee considered the cases of serious failure by member States to respect their reporting and other standards-related obligations. The result

³ Work of the Committee on the Application of Standards, ILC, 107th Session, C.App./D.1 (see Annex 1).

of the examination of these cases is contained in section D of Part One of this report. More detailed information on that discussion is contained in section A of Part Two of this report.

- 17.** The Committee then considered 23 individual cases relating to the application of various Conventions. The examination of the individual cases was based principally on the observations contained in the Committee of Experts' report and the oral and written explanations provided by the governments concerned. As usual, the Committee also referred to its discussions in previous years, comments received from employers' and workers' organizations and, where appropriate, reports of other supervisory bodies of the ILO and other international organizations. Time restrictions once again required the Committee to select a limited number of individual cases among the Committee of Experts' observations. With reference to its examination of these cases, the Committee reiterated the importance it placed on the role of tripartite dialogue in its work and trusted that the governments of the countries selected would make every effort to take the necessary measures to fulfil their obligations under ratified Conventions. The result of the examination of these cases is contained in section D of Part One of this report. A summary of the information submitted by governments and the discussions of the examination of individual cases, as well as the conclusions adopted by the Committee, are contained in section B of Part Two of this report.
- 18.** The adoption of the report and the closing remarks are contained in section E of Part One of this report.

Working methods of the Committee

- 19.** Upon adoption of document D.1, the Chairperson made some announcements regarding time management, particularly the time limit for interventions made during the discussion. Recalling the obligation for delegates to abide by parliamentary language, he trusted that the shared experience would ensure the success of the Committee's work.

20. The Worker members underlined that the Committee's working methods had evolved to take account of the shortening of its work to two weeks, like that of the Conference, thereby imposing a heavy workload. Strict time management had enabled the Committee to complete its work in the time available, allaying some concerns in that regard. Certain fears raised regarding the quality of the discussions under such conditions could also be set aside through a more rigorous and concerted preparation by the groups of the Committee, which would also reinforce the relevance of the interventions. It was nevertheless necessary for everyone's voice to be heard and to contribute to the work of the Committee. The reduction in speaking time should also be marginal. Over and above these practical aspects, the work of the Committee was based on the contributions made by the Committee of Experts, Governments, the Worker and Employer members of the Committee, and the Office. The quality of the work of the Conference Committee was conditional on that of the report and the General Survey prepared by the Committee of Experts. The work of the Office was essential in the follow-up to the Committee's recommendations. In that regard, the reports of follow-up missions should be published so that everyone could be informed. Furthermore, the resources of the International Labour Standards Department of the Office should be strengthened to enable it to more structurally incorporate the follow-up to the conclusions of the Conference Committee. Governments, through their obligation to respect and ensure respect of the protection provided for in ILO instruments, had an essential role in the resolution of the failures detected, and through the sharing of experience.

21. The Employer members hoped that the views they expressed during the discussions and reflected in the conclusions of the Conference Committee would be used by the other ILO supervisory procedures of the Office in the support it provided to the supervisory bodies, as well as ILO initiatives within the context of the United Nations 2030 Agenda for Sustainable Development. Recalling that this was the last session of the Conference Committee before the ILO Centenary, they looked forward to constructive tripartite dialogue which reaffirmed the central role of the Conference Committee in the supervision of international labour

standards. While divergences of views on substantial issues existed among constituents, and between the Conference Committee and the Committee of Experts, the Employer members were committed to voicing these differences in a spirit of mutual respect and understanding, and working towards constructive outcomes.

22. The Government member of Paraguay, speaking on behalf of GRULAC, regretted that the views of this group were not reflected in document D.1. GRULAC considered it fundamental to increase the participation of governments in the informal tripartite consultations on the working methods of the Committee, as seeking consensus was a key feature of the Organization. Finally, he emphasized the need for the Committee to examine cases of progress, as they could act as examples of good practices for other States and would therefore have a positive impact on future ratifications.

Adoption of the list of individual cases

23. During the course of the second sitting of the Committee, the Chairperson of the Committee announced that the list of individual cases to be discussed by the Committee was available.⁴
24. Following the adoption of this list, the Worker members emphasized the particular importance of the adoption of the list of individual cases in the Committee's work as it was a moment which placed certain States before the failures which they refused to consider at the national level, and which were brought up in the presence of other States. This year, once again, the cases selected which related to violations of the fundamental Conventions were numerous and, once again, reflected the constant pressure placed on respect for fundamental rights at work throughout the world. While the Worker members welcomed the fact that the list of individual cases had been adopted by consensus, they regretted the inevitable disappointment generated by the list for certain Worker members who would have hoped their cases to be examined by the Committee. Although the following cases would not be

⁴ ILC, 107th Session, Committee on the Application of Standards, C.App./D.4 (see Annex 2).

discussed, the Worker members wished to refer to certain worrying situations relating to the world of work and express the hope that they would be addressed within the context of other ILO supervisory mechanisms. They included breaches of fundamental labour rights in Kazakhstan, serious violations of fundamental rights and civil liberties in Turkey, child labour in Malawi, particularly in the tobacco and tea sectors, and the situation of the labour inspection services in Pakistan. There was also the violent repression of peaceful demonstrations by workers in Bangladesh and the stark lack of progress in bringing the law and practice into conformity with the requirements of Convention No. 87, despite the repeated examination of the case by the Committee since 2000. In that respect, the Worker members would follow the development of the situation in the country until the following year and, on that basis, consider the possibility of recourse to the complaints procedure under article 26 of the ILO Constitution. They also wished to draw attention to the situation of serious failures in relation to fundamental rights at work in certain countries not on the preliminary list of cases. Those concerned violations of freedom of association and the right to collective bargaining in Argentina and Colombia, as well as in Egypt, where a recently adopted law threatened the independent trade union movement.

25. The Government member of Paraguay, speaking on behalf of GRULAC, recalled his group's position on the following points: (i) the final list of individual cases should be published earlier so that governments could prepare a satisfactory response; (ii) the most serious cases should be given priority; (iii) the Chairperson of the Committee could play a role in seeking tripartite consensus; and (iv) the governments concerned should be informed well in advance so that they could forward all the information to the competent authorities, so that they could take the necessary action. With regard to the adoption of conclusions, it was important to encourage the government concerned to communicate its views on the conclusions, including the conditions under which they would be implemented.

26. The Government member of Algeria hoped that the informal tripartite discussions on working methods that had taken place would support the decision-making process for the

reform of the supervisory bodies, with a view to strengthening the role of the Committee on the Application of Standards and the relevance of its work in the discussion of individual cases. The Committee's current working methods for the selection of individual cases was the result of an evolution intended to increase relevance. However, those methods had had a perverse effect which weakened the tripartite values defended by the Organization and even the Committee's work. Recalling that his Government had put forward proposals on the informal discussions, he welcomed certain changes introduced thus far, in particular the advance communication to the Governments of the preliminary list of cases and the rigorous management of speaking times during discussions. While the selection process for individual cases had become more transparent and effective, progress remained to be made, particularly regarding the search for an adequate formula to ensure equal tripartite participation in that process. The Government group should participate, along with the Employer and Worker members, in the process of determining the selection criteria for individual cases. Furthermore, the final list of individual cases should be available before the start of the Committee, in order to allow countries included on the list to prepare their responses and provide the necessary information. Discussions on the Committee's working methods should contribute to the relevance of its work and all member States should continue in that direction.

- 27.** The Employer member of Argentina, referring to the Worker members' statement, recalled that his country did not even appear on the preliminary list of cases and inquired as to the real reason for that reference.
- 28.** The Government member of Argentina, referring to the Workers' statement, said that while she respected freedom of expression and opinion, she considered that the mention of her country and references to any economic agreements and legislative reforms being formulated were irrelevant to the Committee.

29. The Government member of Egypt, referring to the Worker members' statement, noted that his country did not appear on the preliminary list of individual cases. He recalled that the new legislation, referred to by the Worker members, had been subject to in-depth consultation, particularly with the ILO.

B. General questions relating to international labour standards

Statement by the representative of the Secretary-General

30. The representative of the Secretary-General recalled that the Committee on the Application of Standards was a standing Committee of the International Labour Conference which had met each year since 1926 and its mandate, which was at the heart of the ILO's activities, consisted, among other functions, of examining and bringing to the attention of the Conference meeting in plenary session: (i) the measures taken by Members to give effect to the Conventions to which they were parties; and (ii) the information and reports concerning Conventions and Recommendations communicated by Members in accordance with article 19 of the Constitution. Under the terms of this article, the Committee examined each year a General Survey on the law and practice of member States in a specific field. The details of the Committee's work were contained in document D.1, which also reported on the many improvements made to the working methods of the Committee following the informal tripartite consultations held on this subject since 2006.

31. Following the latest informal tripartite consultations held in November 2017 and March 2018, it had been agreed that the procedure for the adoption of conclusions on the cases that are examined would be modified slightly. It was now envisaged that the conclusions would be visible on screen in the language used by the Chairperson while they were being read out and that at the same time a hard copy of the conclusions would be provided to the Government representative concerned in one of the three working languages of their choice: English, French or Spanish. The Government representative concerned could take the floor,

if she or he so wished, once the Chairperson had announced the adoption of the conclusions. Once again this year, in the same way as last year, the draft minutes of the meetings would be published in a trilingual “patchwork” version (English, French and Spanish). Each intervention would be reflected only in the working language in which it was made or in the language selected by the speaker when requesting the floor. The final report of the Committee, and particularly Part Two on the examination of individual cases, would be submitted to the Committee for adoption in plenary session in the same trilingual “patchwork” version, and the three fully translated versions of the report would be posted online ten days after the end of the Conference. In addition, all the Committee’s documents, including the draft minutes of the sittings, would be posted online on the Committee’s web page, which would be the main means of sharing documents, in accordance with the paperless policy implemented by the Office. Amendments to the minutes for each sitting may be submitted either in writing or by email. During the latest informal tripartite consultations, it had been decided to allocate more time for the discussion of the General Survey to permit its examination in greater depth. The members of the Committee were invited to take full advantage of the opportunity to inform the Committee of problems and national practices relating to working time in the light of the examination made by the Committee of Experts. The General Survey and the outcome of the Committee’s discussions would inform the subsequent examination by the Tripartite Working Group of the Standards Review Mechanism.

- 32.** In 2018, the ILO was celebrating the 70th anniversary of the Universal Declaration of Human Rights and of the Freedom of Association and Protection of the Right to Organise Convention (No. 87), which had both been adopted in 1948. It was also the 60th anniversary of the adoption of the Discrimination (Employment and Occupation) Convention (No. 111) in 1958. Finally, 2018 was the 20th anniversary of the adoption of the ILO Declaration on Fundamental Principles and Rights at Work, which had been adopted in 1998. It seemed important to emphasize the interdependence and relevance of all those instruments.

Moreover, the fact that the 2030 Sustainable Development Agenda, adopted by the United Nations, devoted many of its targets and indicators to equality, diversity and inclusion, as well as to the rule of law and good governance, demonstrated the importance of equality and freedom of association for the future of work and for sustainable development. Those two indissociable principles had their foundations and universal recognition in an emblematic document, the Universal Declaration of Human Rights. The recognition in the Universal Declaration of Human Rights that all human beings had fundamental rights and freedoms had retained all its relevance and remained essential today. That universal message had been taken up in the ILO Declaration on Fundamental Principles and Rights at Work, adopted in 1998, in order to emphasize, among other matters, the indissociable nature of the four fundamental principles and rights at work. Nevertheless, despite the time that had elapsed since the adoption of those two Declarations, violations of human rights, including of freedom of association and non-discrimination, were far from eradicated throughout the world. Convention No. 87 was part of the ILO's DNA. Without Convention No. 87, it would be impossible to speak of tripartism and social dialogue. And it was often said that, without freedom of association, there could be no equality, since social dialogue and collective bargaining made a decisive contribution to promoting equality and protecting against discrimination. To date, Convention No. 87 had received 154 ratifications. Even so, it was still the least widely ratified of all of the ILO's fundamental Conventions. The recurrent report on social dialogue, which would be discussed during the present session of the Conference, and last year's recurrent report on fundamental principles and rights at work, both emphasized the need to further promote the ratification and implementation of the fundamental Conventions, particularly in the field of freedom of association, especially as the ILO's Centenary drew near. Convention No. 111 had been adopted in 1958, in the middle of the period of decolonization and the historic civic movements. Today, following the adoption of the 1998 Declaration and the subsequent ratification campaign, the Convention had been ratified by 175 member States. Despite that, and the major progress achieved since the adoption of the Convention, the eradication of discrimination was far from a reality and

discrimination of all types persisted on grounds of race, colour, sex, religion, political opinion, national extraction and social origin. That worrying situation lay behind one of the commitments of Agenda 2030 to leave no one behind.

33. With particular reference to women at work, according to the Director-General of the ILO, whose Report this year covered that important subject, “[t]he undeniable reality is that the disadvantages that women continue to face at work, notwithstanding the real progress that has been recorded, including through the ILO, constitute perhaps the most flagrant and the greatest offence to social justice”. It therefore seemed appropriate that the International Labour Conference was examining this year in the first discussion the adoption of a new instrument on violence and harassment at work which, as emphasized recently by the media, was unfortunately a very widespread reality in the world of work. In that regard, the Director-General called on all the members of the ILO community, and not only those who worked in the Office, but also the members of the Governing Body, experts, delegates and participants in ILO meetings and Conferences, to be aware of and to prevent any manifestation of sexual harassment or violence. It was the responsibility of everyone to ensure that the International Labour Conference offered an example in that respect.

34. With regard to the progress achieved within the context of the Centenary Standards Initiative, she recalled that the Standards Initiative had two components, which were both under the responsibility of the ILO Governing Body. The first component concerned the Standards Review Mechanism and its Tripartite Working Group, the object of which was to contribute to ensuring that the ILO’s body of standards was up to date and responded to the changing patterns of the world of work. In that regard, the work was progressing constructively. At its third meeting in September 2017, the Tripartite Working Group had undertaken its first substantive examination of 19 instruments on occupational safety and health (general provisions and specific risks). During its examination, the Tripartite Working Group had benefited from the outcome of the Conference Committee’s discussion of last year’s General Survey on occupational safety and health. The findings of the Tripartite

Working Group included: (i) the need to promote the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187); (ii) the fact that the Prevention of Industrial Accidents Recommendation, 1929 (No. 31), was outdated and should be withdrawn; and (iii) the fact that ten instruments required further action to maintain their future relevance. Finally, the Tripartite Working Group had identified two gaps in terms of protection relating respectively to questions of ergonomics at work and biological hazards. With a view to following up the recommendations of the Tripartite Working Group, the Office had taken measures to support the development of national tripartite plans of action on international labour standards. The second component of the Standards Initiative related to the strengthening of the ILO supervisory system. Both bipartite and tripartite discussions were also progressing in that respect. At its next session, the Governing Body would examine several improvements to the supervisory system, including the extension of the reporting cycles for technical Conventions from five to six years and reinforcing the planning of requests for reports by subject.

- 35.** With reference to the Office's strategy to provide technical assistance to facilitate tangible progress at the national level, she indicated that, as a result of the implementation of two action and promotional plans, over the past two years there had been 14 ratifications of the Maritime Labour Convention, 2006, as well as 14 ratifications of instruments on occupational safety and health. The full results of ILO action over the last two years, including in the area of international labour standards, were outlined in the Report of the Director-General on ILO programme implementation 2016–17, which was submitted to the current session of the Conference. As decided during informal tripartite consultations on the working methods of the Committee, information regarding the measures taken by the Office to give effect to the recommendations of the Committee had once again been posted on the dedicated web page and was updated regularly. In line with the conclusions and recommendations adopted last year by the Committee, a high-level tripartite mission had visited Kazakhstan; there had been two direct contacts missions to Egypt and El Salvador; a

high-level mission in Mauritania; and a technical assistance mission in Belarus. Moreover, several other countries had requested and received technical assistance from the Office. The reports received from governments that had benefited from such assistance often demonstrated the extent to which the discussions and conclusions of the Committee could facilitate the provision by the Office of targeted and truly effective assistance. In cases of serious failure by member States to comply with their reporting obligations, the Office offered technical assistance tailored to their needs. Several of the member States concerned had fulfilled, at least in part, their reporting obligations. Finally, with the Turin Centre, the Office was continuing to provide tailored training on international labour standards at the national, regional and international levels. The annual International Labour Standards Academy had been held for the second time this year with a view to sharing knowledge and tools on international labour standards with the tripartite constituents of the ILO, judges, lawyers, law professors and media professionals.

36. In conclusion, the representative of the Secretary-General reaffirmed that the Office was once again determined to support and consolidate the constructive participation of the tripartite constituents in a reliable supervisory system which enjoyed their trust and in which everyone was a stakeholder. The International Labour Standards Department was therefore placing its full expertise at the service of the Committee so that it could play its vital role within the ILO's constitutional framework.

Statement by the Chairperson of the Committee of Experts

37. The Committee welcomed Mr Abdul Koroma, Chairperson of the Committee of Experts, who expressed his appreciation for the opportunity to participate in the general discussion and the discussion of the General Survey. The Chairperson of the Committee of Experts underscored the importance of the Committee of Experts' special sitting with the two Vice-Chairpersons of the Conference Committee, which together with his participation in the work of the Conference Committee represented the institutional framework of good practice

whereby representatives of the two bodies exchanged views on matters of common interest. At the last special sitting, the Committee of Experts had duly noted the concerns expressed by the Employer Vice-Chairperson regarding the increase in the number of cases of serious failure to comply with reporting obligations, upon which the Committee of Experts had decided to institute as of its next session, the practice to launch “urgent appeals” upon the following criteria: (i) failure to send first reports for the third consecutive year; (ii) failure to reply to serious and urgent observations from employers’ and workers’ organizations for more than two years; and (iii) failure to reply to repetitions concerning draft legislation when developments had taken place. In such cases, the Committee of Experts might include an opening paragraph in its comments, informing the governments concerned that in the case of continued failure to supply a report or replies to the points raised by 1 September of the following year, the Committee of Experts might proceed with its examination on the basis of the information at its disposal and adopt a new comment. Similarly, the Conference Committee might call on the governments concerned to appear before it and inform the governments concerned about this possibility of the substantial consideration by the Committee of Experts in the event of continued reporting failure, thereby also reinforcing the synergies between the two supervisory bodies.

- 38.** The Committee of Experts also welcomed the information received during the last special sitting on the methods proposed in the discussions in the Governing Body on the Standards Initiative to strengthen the supervisory system, which included: (i) the thematic grouping of Conventions for reporting purposes; (ii) the practice of consolidated comments; (iii) the introduction of an electronic document and information management system for the supervisory bodies; and (iv) the extension of the reporting cycle for technical Conventions from five to six years. Concerning the latter proposal, the Committee of Experts expressed its willingness to consider, from its next session, the manner in which it might extend the currently limited criteria for breaking its cycle of review when receiving comments from

employers' or workers' organizations under article 23(2) of the ILO Constitution. Inspiration could be drawn from the criteria used for requesting early reports.

- 39.** The Committee of Experts had noted in its report that the number of observations received from employers' and workers' organizations on the application of Conventions and Recommendations had continued to increase, which was an indicator of the vitality of the supervisory mechanism and greatly assisted it in making its assessment. The Committee of Experts had also reiterated its long-standing concern at the low proportion of reports received by 1 September, and was going to examine in more detail the treatment of reports received after the deadline of 1 September at its next meeting. Moreover, the Committee of Experts had once again called on all governments to ensure that copies of reports on ratified Conventions were communicated to the representative employers' and workers' organizations so as to safeguard this important aspect of the supervisory mechanism. Lastly, the Chairperson of the Committee of Experts drew attention to the General Survey concerning working-time instruments. The scope of the General Survey was particularly ambitious as it covered all working-time aspects (hours of work, weekly rest, annual leave, night work and part-time work) regulated by ILO instruments (nine Conventions, one Protocol and six Recommendations on working time). He referred to the positive developments and challenges identified in the General Survey, including those brought by new working arrangements. Informing about the content of the General Survey, he referred, among other things, to the importance of social dialogue and collective bargaining in the implementation of Conventions on working time, as well as the need for effective labour inspection and dissuasive penalties for non-compliance with working-time provisions.
- 40.** The Committee of Experts was firmly engaged in meaningful dialogue with the Conference Committee and all other ILO supervisory bodies, in the interest of an authoritative and credible ILO supervisory system and ultimately for the cause of international labour standards and social justice worldwide.

41. Lastly, the Chairperson of the Committee of Experts announced the departure of Professor Mario Ackerman and Justice Ajit Prakash Shah from the Committee of Experts and paid homage to their long-standing and invaluable contributions to its work.

Statement by the Employer members

42. The Employer members welcomed the presence of the Chairperson of the Committee of Experts in the general discussion of this Committee. The Employer members indicated that for more than 90 years, the Conference Committee had been at the centre stage of the regular standards supervision. The Committee had provided a regular forum for dialogue between tripartite constituents on the application of ratified Conventions and other standards-related obligations. Tripartite dialogue in the Conference Committee was based on two elements: the report of the Committee of Experts, and the contributions from the members of the Conference Committee, who brought their own assessment of the application of the Conventions in law and practice, their real and practical understanding of the economic and social situation in ILO member States, their knowledge of the latest developments and their rich experience in labour and social affairs. In the Employer members' view, this was key to the achievement of balanced, relevant and practical conclusions of the Conference Committee, that advised the governments concerned on realistic and specific ways to fully implement ratified ILO Conventions, and thus to better compliance of member States with their obligations arising from international labour standards. This could best be achieved with the active and full participation of the tripartite constituents of the ILO at all stages of the supervisory process. Achieving better compliance did not only require pointing to failures in proper implementation, but also shed more light on cases of progress and emphasizing best practices. While the Conference Committee discussed and reached conclusions on some 24 cases, its members also commented on general application problems, including the provision of guidance to the Committee of Experts in carrying out its preparatory work. To ensure full governance and ownership, further measures should be

considered to extend tripartite supervision to areas that, thus far, had been left only to the Committee of Experts.

43. The Employer members highlighted a number of positive elements in the report of the Committee of Experts. First, the mandate of the Committee of Experts had once again been reproduced in paragraph 19 of the report, thus clarifying that its opinions and recommendations were non-binding. Second, the systematic reference made by the Committee of Experts in its observations to the discussions and conclusions of the Conference Committee reflected the increasing integration of the two main supervisory bodies, which should be continued. Third, they welcomed the decision taken by the Committee of Experts, based on the proposal of the Employer members made last year, to launch “urgent appeals” of cases of serious reporting failure, and to draw the attention of the Conference Committee to those cases. This enabled the Conference Committee to advise the governments concerned that, in the absence of a report, the Committee of Experts might examine the substance of the matter at its next session. This new practice was most likely to have an important impact on the work of the Conference Committee as of 2019.

44. The Employer members made a number of proposals to increase the effectiveness, transparency and relevance of the regular standards supervision: (i) in view of the need to render the report of the Committee of Experts more reader-friendly and transparent, it should contain clear, concise and straightforward language with concrete requests for action; (ii) it would be desirable to include hyperlinks in the electronic version of the Committee of Experts’ comments to relevant earlier Committee of Experts’ comments and Conference Committee discussions, as well as the text of submissions made by employers’ and workers’ organizations to the Committee of Experts, in so far as these organizations wished to have them made publicly available; these submissions could then also be published on the NORMLEX website; and (iii) as stated in the 2017 Joint Position of the Workers’ and Employers’ groups, reports of missions regarding Conference Committee conclusions or a summary with the non-confidential concrete results of missions should be published on the

Conference Committee web page and/or the NORMLEX website. The Employer members specifically requested that a number of issues should be included on the agenda of the next meeting on the working methods of the Conference Committee, including: (a) more direct cooperation and dialogue between members of the Committee of Experts and the Conference Committee; (b) the exploration of the possibility of the Conference Committee to examine the implementation of conclusions adopted in previous years rather than simply posting them on the dedicated Conference Committee website, as well as the improvement of the Conference Committee web page, including by adding information on tripartite deliberations, and enabling full access to the submissions made by the constituents during the Committee's work; and (c) improvements in the supply of information by member States in D documents, including the encouragement of member States concerned by the preliminary list of cases to provide updated information on their cases one month in advance of the opening of the International Labour Conference, which the Office would make available on the Conference Committee web page. This would allow the social partners to access the latest information from governments to narrow down the preliminary list, and would allow the tripartite constituents to prepare interventions for the discussion in the Conference Committee in advance with all the necessary up-to-date information.

- 45.** The Employer members also raised a number of concerns relating to the regular supervision of standards: (i) given the continued failure of many governments to comply with their reporting obligations, they trusted that the present efforts to streamline reporting, including extending the possibilities for e-reporting as considered by the Governing Body in March 2018, would facilitate reporting and increase reporting rates in the future. Nevertheless, more fundamental steps were needed to respond to this issue. In particular, consolidation, concentration and simplification of ILO standards themselves would be required. This had already been achieved to a significant extent in the field of maritime labour standards, and it was hoped that the work of the Standards Review Mechanism Tripartite Working Group would also lead to progress in this respect in other standards areas; (ii) the criteria concerning

the differentiation between observations and direct requests as described in paragraph 41 of the Committee of Experts' report, in particular, the criteria termed "primarily of a technical nature", for direct requests and "important discrepancies" for observations, were not entirely clear and gave rise to some confusion. In many cases, it was difficult to understand why a comment had been classified in the chosen category as opposed to the other. This was important because direct requests were not included in the report of the Committee of Experts. By making comments and recommendations to governments in the form of direct requests, a major part of the substantive issues relating to the application of ratified Conventions was removed from tripartite supervision. The Employer members therefore called on the Committee of Experts to make all comments that concerned compliance issues and respective recommendations in the form of observations; (iii) the Employer members also expressed concern with regard to the decision of the Committee of Experts to depart from the regular reporting cycle in some cases and not in others. While they recognized the discretion of the Committee of Experts in this respect, they also emphasized that, in the spirit of good governance, there should be transparency surrounding the reasoning when the reporting cycle was altered. In future reports, relevant information on similar cases should be provided by the Committee of Experts; and (iv) the Employer members raised concerns with regard to the discrepancy that might arise between the Conference Committee's conclusions and the comments of the Committee of Experts, referring to a case in relation to which the Committee of Experts had noted with satisfaction action taken by the Government that clearly disregarded the Conference Committee's own conclusions; they called upon the Committee of Experts, when making assessments, to duly take into account the conclusions of the Conference Committee which reflected tripartite consensus.

- 46.** The Employers members reiterated their belief in fundamental principles and rights at work, including freedom of association, as the foundation for democracy. At the same time, they emphasized their continued disagreement with the direct connection made by the Committee of Experts between Convention No. 87 and an explicit right to strike, and with its broad

interpretation in this respect. They highlighted the fact that, in the Committee of Experts' Report, out of 49 observations on Convention No. 87, 33 dealt in one way or another with the right to strike, which included comments that dealt exclusively with the right to strike. The Employer members wished to put on record that they did not recognize the Committee of Experts' interpretation of a right to strike under Convention No. 87 and that they firmly maintained their dissenting position on this issue. Additionally, they expressed concern about the frequent reference by the Committee of Experts to cases examined by the Committee on Freedom of Association. They stressed that the Committee of Experts and the Committee on Freedom of Association had different legal bases and mandates. While the situations that the Committee on Freedom of Association and the Committee of Experts were confronted with might often be similar, the important differences between the two procedures should not be disregarded when making such references.

Statement by the Worker members

47. The Worker members welcomed the presence of the Chairperson of the Committee of Experts in the general discussion of the Conference Committee. They observed that the world was currently experiencing upheaval in several respects: (i) the globalization of the economy was allowing the free movement of capital with the sole objective of achieving profit, which often had detrimental social and environmental consequences; (ii) climate change and environmental issues would give rise to an increasing number of work-related problems; and (iii) armed conflict was laying waste to certain whole regions. Those three phenomena were closely linked and were behind the massive migratory flows which were raising fundamental questions concerning how work-related issues should be addressed in a context which was also characterized by the emergence of authoritarian regimes in certain countries that were not very respectful of civil liberties and fundamental rights. The problems that arose in that regard constituted challenges for the ILO, in which the Committee had an important role to play as one of the two pillars of the Organization in the supervisory system for international labour standards, alongside the Committee of Experts.

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- 48.** The Worker members welcomed the extensive references in the report of the Committee of Experts to the conclusions of the Conference Committee, which was a significant development. They suggested, however, that the Committee of Experts might examine in greater detail the manner in which each of the recommendations was given effect by the governments concerned. They also welcomed the initiative by the Committee of Experts to ensure a better balance between the various types of Conventions in the selection of cases with a double footnote. The Committee of Experts should pay as much attention as possible to the so-called technical Conventions.
- 49.** The Worker members shared the concern of the Committee of Experts in relation to the backlog accumulated by many governments in presenting their reports. Only 38.2 per cent of the reports requested had been received by 1 September 2017, which was a lower rate than the previous year. Such delays were detrimental to the quality of the work carried out by the Committee of Experts. They therefore called on governments to comply with their reporting obligations within the required time limits. They were however aware of the fact that such failings were not always intentional, but were due to practical difficulties. The technical assistance provided by the Office in this respect was valuable and reflection was required on the best way in which it could be reinforced. They also echoed the comment by the Committee of Experts that several governments were still not fulfilling their obligation to communicate the reports beforehand to workers' and employers' organizations. Those cases of failures offered an indication of the importance accorded to dialogue and concerted social action in the countries concerned.
- 50.** Responding to certain proposals made during the discussions, the Worker members indicated that: (i) the observations in the Committee of Experts' report were directed at stakeholders who were accustomed to the particular vocabulary used, the governments and the social partners and should therefore respond only to the need for clarity and precision. The Employer members' proposal to simplify the vocabulary used in the Committee of Experts' report should therefore be subject to an in-depth discussion; (ii) they did not support the

Employer members' proposal to publish the observations communicated to the Committee of Experts by workers' and employers' organizations which so agreed, as that risked undermining the discretion and independence of the Committee of Experts; (iii) the explanation of the circumstances that could result in an interruption of the reporting cycle in paragraph 64 of the Committee of Experts' report seemed clear and sufficient. Such circumstances constituted safeguards intended to maintain the effectiveness of the regular supervisory system; and (iv) the opportunities for exchanges between the Conference Committee and the Committee of Experts, which were already in place, were sufficient and it did not seem necessary to set up more.

- 51.** Responding to the comment by the Employer members, who had recalled their position concerning Convention No. 87 and the right to strike, the Worker members wished, in turn, to recall that they considered that the right to strike was recognized within the framework of Convention No. 87. That right was related to the exercise of freedom of association, which was not only a fundamental ILO principle and right but also a fundamental element of all democracies. In that regard, the Worker members recalled that the United Nations Special Rapporteur on the rights to freedom of peaceful assembly and of association had indicated that the right to strike was enshrined in international law and that its protection was necessary to ensure fair, stable and democratic societies. They recalled the constructive and concerted work carried out in the Committee since 2015 to establish effective regular supervisory mechanisms and hoped that those mechanisms would continue to be strengthened, beyond differences in viewpoints, in order to achieve the objectives of the ILO.

Statement by Government members

- 52.** The Government member of Bulgaria, speaking on behalf of the European Union (EU) and its Member States, the candidate countries Montenegro, Serbia and Albania, the potential candidates Bosnia and Herzegovina and Georgia, emphasized that the regular and successful monitoring of the application of international labour standards was crucial to ensure the

mandate and authority of the ILO and welcomed the recent changes made to the functioning of the Conference Committee. Given that the improvement of the working methods of the Conference Committee was under way, she made a few comments and recommendations in that connection: (i) issues covered by the complaints procedure under article 26 of the ILO Constitution should, to the extent possible, not be discussed in the Conference Committee to avoid duplication; (ii) assessing the seriousness of some cases, based on the report of the Committee of Experts, was sometimes challenging, particularly when the report did not contain up-to-date information, and she therefore strongly encouraged governments on the preliminary list to provide the Office with any available information once the list was issued, which should be shared with all ILO constituents. In this respect, it would be useful to have a clear assessment of each case by the Committee of Experts on the situation. In some cases, the assessments in the report related only to specific aspects, which did not provide a clear overall picture of the level of compliance with the Conventions in question. In other cases, the Committee of Experts only referred to the observations of the social partners and it was difficult to evaluate the seriousness of the situation from the report; (iii) while the constraints of the Workers and Employers relating to internal consultations were understandable, having the final list of cases when the Conference Committee had already started made preparation more complicated. It was therefore essential to have available, for each case discussed in the Conference Committee, a clear description of the issue at stake, along with the most up-to-date information and opinions of the Committee of Experts to allow for an informed and fruitful discussion; (iv) General Surveys should assist and inform the discussion of the Standards Review Mechanism Tripartite Working Group, in its task to update and modernize the body of Conventions and Recommendations. Outcomes of the Tripartite Working Group discussions could also feed into the General Survey discussion of the Conference Committee. The results of the discussions in the Standards Review Mechanism Tripartite Working Group and on the General Surveys could then be communicated to the Governing Body for further discussion.

53. The Government member of Brazil supported the request made by the Employer members that information should be provided by the Committee of Experts in relation to each individual case where it had departed from the regular reporting cycle. He emphasized that this would respond to the need for transparency and enhanced legal certainty in the existing supervisory procedure.

Reply of the Chairperson of the Committee of Experts

54. The Chairperson of the Committee of Experts recalled that his attendance in the general discussions and on the General Survey was an element of the long-standing arrangements under which the Conference Committee and the Committee of Experts – as the two pillars of the regular supervisory mechanism – had engaged in constructive dialogue throughout the years. That ongoing dialogue was carried out in a spirit of mutual respect, cooperation and responsibility between the two Committees, as reiterated in the General Report of the Committee of Experts and demonstrated again throughout the current discussion in the Conference Committee. Many positive and some less positive comments had been made on the report of the Committee of Experts and the innovations introduced this year clearly demonstrated that that dialogue was a fruitful and important component of the successful functioning of the ILO supervisory mechanism.

55. The comments made by the members of the Conference Committee, including the requests for clarification on the criteria for the examination of cases outside the reporting cycle and the suggestions made by the Employer members, had retained his full attention and would be transmitted to the Committee of Experts. In this regard, the Committee of Experts would continue to give careful consideration to the views expressed by the tripartite constituents in the Conference Committee and the work of the Governing Body. In this context, he welcomed the emphasis placed by the Employer members on the importance of freedom of association as the basis of democracy and their recognition of the right of workers and employers to take industrial action in support of their legitimate industrial interests.

Regarding the persistent concerns of the Employer members in relation to Convention No. 87 and the right to strike, he referred to paragraph 17 of the report of the Committee of Experts which reflected the important considerations of the Committee on that matter. Recalling that only Article 9 of Convention No. 87 left the extent of the guarantees of the Convention – in relation to the police and armed forces – to be determined by national laws and regulations, the Committee of Experts had highlighted the careful attention given to the useful information provided in the reports of member States and the comments from employers' and workers' organizations on the way in which that right was regulated at national level. The Committee of Experts had also emphasized that that question was only one of a wide range of important issues raised under Convention No. 87. As regards the General Survey, the rich discussions held in the Conference Committee were yet another example of how General Surveys and the related discussions in the Conference Committee could usefully inform broader tripartite processes and discussions concerning, in particular, standard-setting activities.

Reply of the representative of the Secretary-General

56. The representative of the Secretary-General welcomed the acknowledgment by the members of the Conference Committee of the usefulness of ILO technical assistance in resolving long-standing issues related to the application of ratified Conventions and the call for the Office to even further develop its activity in this area. Such sentiments reflected the assessment the Office had conducted in the context of the implementation report of the Programme and Budget for the biennium 2016–17 submitted to the present session of the Conference, in particular the review of outcome 2 concerning the ratification and application of international labour standards. Building on the lessons learned, three main priorities had been set in the current biennium: (i) increased reach of international labour standards through wider ratification; (ii) enhanced action by tripartite constituents and other actors at country level for the application of international labour standards, supported through national and

multilateral planning frameworks such as Decent Work Country Programmes (DWCPs) and United Nations Development Assistance Frameworks (UNDAFs) or equivalent planning frameworks; and (iii) effective engagement of and ownership by tripartite constituents in the preparation, adoption, reporting and review of international labour standards. These priorities were expected to increase the effectiveness of the impact of international labour standards and enable member States to advance towards the attainment of the relevant targets set in the United Nations Sustainable Development Goals.

57. The Office had taken due note of the many concrete suggestions with respect to questions that would be further discussed in the framework of the Standards Initiative, particularly during the tripartite informal consultations on the working methods of the Conference Committee. The Office would spare no effort to follow up on these suggestions within the limits of its available resources. The range, scope and content of the interventions of the members of the Conference Committee on the General Survey on working-time instruments had confirmed the topical nature of the subject and its importance for the future of work. The outcome of the discussion and the report on its discussions would be communicated to the ILO Tripartite Meeting of Experts on working time and work–life balance tentatively planned for 2019, as well as to the Tripartite Working Group of the Standards Review Mechanism when it would examine instruments concerning working time.

Concluding remarks

58. The Worker members welcomed the discussions on the respective roles of the Conference Committee and the Committee of Experts, and on the ways of improving interaction between the two bodies. They recalled that these discussions should take place in the context of mutual respect for the independence of each body and with the sole concern of enhancing the functioning of the regular supervisory system for international labour standards. The Worker members also underscored the fact that the relation with the Committee of Experts was part of a process of collaboration and not integration. They emphasized that the

Conference Committee should not exert any form of oversight over the other supervisory bodies. They also considered that the reproduction of the observations of the Committee on Freedom of Association did not pose any problem. On the contrary, the necessary links should be established between the supervisory bodies to ensure a consistent approach to the standards under their supervision.

- 59.** The Employer members considered that the work of the Committee of Experts was an important component in the successful functioning of the work of the Conference Committee, as well as an important element of the regular standards supervisory system as a whole. Ongoing dialogue between the Committee of Experts and the Conference Committee was of utmost importance, not only for ILO constituents to better understand standards-related obligations but also to facilitate the understanding of the Committee of Experts of the practical realities and needs of the users of the supervisory system. They agreed with the Worker members that it was important to always maintain the independence of the Committee of Experts but also emphasized the importance that those two pillars of the supervisory system should be open and willing to listen to each other, as well as to the tripartite constituents, and to implement measures to make the regular standards supervisory system more user-friendly, effective and transparent so that all could work together to facilitate the understanding and best possible application of international labour standards. The discussion on the General Survey had been an opportunity to review the diversity in ILO member States regarding law and practice in the field of working time, which reflected different levels of efficiency, and working cultures, different sectoral requirements, diverse workplace needs, such as of micro-enterprises, and different legal approaches. That analysis had been very instructive and highlighted some of the challenges that lay ahead concerning the regulation in the area of working time.

C. Reports requested under article 19 of the Constitution

General Survey concerning working-time instruments

- 60.** The Committee discussed the General Survey carried out by the Committee of Experts on the following working-time instruments: the Hours of Work (Industry) Convention, 1919 (No. 1); the Weekly Rest (Industry) Convention, 1921 (No. 14); the Hours of Work (Commerce and Offices) Convention, 1930 (No. 30); the Forty-Hour Week Convention, 1935 (No. 47); the Night Work (Women) Convention (Revised), 1948 (No. 89); the Protocol of 1990 to the Night Work (Women) Convention (Revised), 1948; the Weekly Rest (Commerce and Offices) Convention, 1957 (No. 106); the Holidays with Pay Convention (Revised), 1970 (No. 132); the Night Work Convention, 1990 (No. 171); the Part-Time Work Convention, 1994 (No. 175); the Night Work of Women (Agriculture) Recommendation, 1921 (No. 13); the Holidays with Pay Recommendation, 1954 (No. 98); the Weekly Rest (Commerce and Offices) Recommendation, 1957 (No. 103); the Reduction of Hours of Work Recommendation, 1962 (No. 116); the Night Work Recommendation, 1990 (No. 178); and the Part-Time Work Recommendation, 1994 (No. 182).
- 61.** The General Survey took into account information on law and practice provided by 124 governments under article 19 of the ILO Constitution, as well as the information provided by member States which had ratified the Conventions in their reports under articles 22 and 35 of the Constitution. The General Survey also reflected the comments received from 30 workers' organizations and 11 employers' organizations pursuant to article 23 of the Constitution.
- 62.** The Chairperson of the Committee of Experts noted that it was the first time that a General Survey addressed all the aspects of working time together. The General Survey identified positive aspects, in particular in the legislation of many countries which was in conformity with key aspects of ILO Conventions on hours of work, weekly rest and paid annual leave. The General Survey also highlighted the efforts made in many countries to promote and

regulate part-time work. Nonetheless, the Committee of Experts had noted that many issues remained in practice, such as long hours of work and their impact on the health and well-being of workers. Other issues related to financial compensation being provided in lieu of weekly rest, long qualifying periods of service being fixed for workers to be entitled to annual leave with pay, and annual holidays being divided into many parts or postponed for long periods of time. In the context of night work, necessary protective measures, such as limits to overtime, maternity protection and social services, were not frequently contained in national legislation. In the case of part-time workers, the General Survey highlighted the need to improve equality in employment conditions and social protection coverage. The Committee of Experts had also identified emerging challenges, including the increased use of on-call work and the impact of information and communication technologies on the organization of work and on working-time arrangements. The General Survey noted the role of collective bargaining and social dialogue in the implementation of the ILO instruments on working time. Lastly, the Committee of Experts had recalled the importance of ensuring that effective mechanisms were in place to secure compliance with working-time provisions, primarily through labour inspection and the application of dissuasive penalties for non-compliance.

General remarks on the General Survey and its topicality

63. The Committee welcomed the opportunity to discuss the General Survey which comprehensively covered all aspects of working time. Both Worker and Employer members, as well as a number of Government members, stressed that addressing this subject matter was particularly timely in a changing world of work.
64. The Worker members noted that the General Survey contained important findings to support the work of the Committee towards guaranteeing effective decent working time for all workers. They noted that the effective application of the limits to working time of eight hours a day and 48 hours a week which were already envisaged in the Treaty of Versailles,

remained a current challenge. They stressed that limits on hours of work must take into account the health and safety of workers and the importance of “work–life balance”. Too many workers were deprived of that protection. They highlighted that the General Survey provided details on how effect was given to working-time regulations in ILO member States, both in law and in practice.

- 65.** The Employer members noted that the General Survey was the first that comprehensively addressed all working-time aspects. They noted that the General Survey covered as many as 16 ILO instruments but seemed to cover the Conventions in much more detail than the Recommendations. In view of ongoing discussions on this in the Governing Body, the Employer members stressed that the function of General Surveys was to examine selected ILO standards, and not to examine a particular subject. In shedding light on difficulties in the implementation or ratification of the selected instruments, as well as potential gaps in their coverage, General Surveys enabled the ILO to make decisions on any necessary action regarding the instruments examined. They considered that the General Survey confirmed the existing diversity in ILO member States on working time law and practice, reflecting different levels of productivity, different working cultures, different sectoral requirements and different legal approaches. Working time was an issue that was subject to constant changes and required regular adaptation to new realities. Enhancements in technology and communications were changing the traditional time and space dimensions of work. There were also other factors such as the increased feminization of labour markets that were changing traditional working-time schemes. Workplace flexibility, both in terms of working time and location, was the most salient characteristic of the new world of work. Flexibility made life easier for many individuals with family or other responsibilities and allowed them to take control of the balance between their work and other life duties. They stressed that the organization of working time was of fundamental importance for the productivity, performance, competitiveness, sustainability and the ability to create jobs of enterprises. Any regulation of working time had to carefully balance both the protection needs of workers and

the varying and evolving needs of enterprises, in particular in the following respects: the efficient use of machinery and equipment; the time preferences of markets and customers; the scarcity of skilled workers in labour markets; and the need to keep labour costs contained.

- 66.** The Government member of Bulgaria speaking on behalf of the EU and its Member States, as well as Albania, Bosnia and Herzegovina, Georgia, Montenegro and Serbia, noted that the number of hours worked and their organization had major impacts on the life of workers and in particular on their health and safety and work–life balance. In addition to safeguarding workers’ health and safety, effective policies in the area of working-time regulations played a crucial role in sustaining business performance, security, productivity and competitiveness and in ensuring a level playing field for enterprises. The General Survey showed that progress had been made in many parts of the world with regard to legislation related to weekly limits, weekly rest and holidays with pay, but that many challenges remained. Due to the development of new technologies, the boundaries between working time and rest periods threatened to become blurred.
- 67.** The Government member of Norway, speaking on behalf of the Nordic countries, noted that working-time issues were at the very centre of policy discussions and design and stressed the importance of the issues of working time feeding into the discussion on the Future of Work Initiative. The Government members of Belgium and Kenya underlined that the General Survey provided a clear overview of new trends and developments around the world in the field of working time.
- 68.** The Employer member of Brazil and a Worker member of Colombia highlighted that in the context of the future of work, working time today was a point that required particular attention. The Worker member of the Republic of Korea stated that regulation of working hours was essential to achieve social justice, a core value of the ILO.

Importance of the ILO instruments on working time

- 69.** A number of members of the Committee commented on the value and relevance of the ILO instruments on working time covered in the General Survey.
- 70.** The Employer members highlighted that the wide diversity of ILO member States and the developments in the world of work made it difficult to set generally recognized international standards on working time and to create a level playing field in this area at global level. The common denominator for international regulations in this field seemed small. The fact that ILO working-time Conventions had generally low ratification rates, particularly in Asia and the Pacific region, could be an indicator that they had gone beyond this common denominator.
- 71.** The Worker members stated that since its creation in 1919, the issue of working time was at the core of the ILO's mandate and agenda and of its standard-setting activities over its first century. The General Survey showed that even the very first ILO Convention, Convention No. 1 on hours of work, was far from being universally applied, which demonstrated the need for vigorous action in this area. There was a need to clarify the misunderstandings reported by the Committee of Experts in relation to the 16 instruments covered by the General Survey. The ratification and effective implementation of these instruments had to be promoted.
- 72.** The Government member of Norway, speaking on behalf of the Nordic countries, stressed that working-time instruments were at the core of international labour standards. Enhancing the relevance of these instruments and keeping them up to date was a current challenge for the ILO. In the midst of the new trends in the world of work, it was important to hold on to the fact that standards relating to daily and weekly hours of work, weekly rest, paid annual leave, part-time and night work, remained relevant and important for promoting decent working conditions and fair competition.

73. The Government member of Argentina considered that working time represented one of the most relevant pillars of international labour standards. The Employer member of India stated that the review of the working-time instruments had become long overdue. The Worker member of the United Kingdom, speaking also on behalf of the Worker member of the United States, noted that the current problems experienced by workers illustrated why ILO standards on working time remained relevant.

Hours of work

74. The Worker members reaffirmed the importance of the double limit of eight hours a day and 48 hours a week and noted that the regulation of working time was an essential tool for achieving social justice. The definition of working hours was not always applied in accordance with Convention No. 30. In some countries, only the daily limit or the weekly limit applied. Regulating working time and fixing limits to the daily and weekly hours of work was vital. Highlighting the impact that long hours had on the health and well-being of workers, they stressed that limits on hours of work had to take into account workers' health and safety and the need to ensure work–life balance. Adequate protection was necessary to prevent excessive fatigue and to guarantee that workers could rest and engage in social activities. With respect to the possibility of exclusions and exceptions to normal working hours, the Worker members stated that the scope of the Conventions offered considerable flexibility, allowing countries to exclude certain categories of workers from definitions and the application of important provisions. The large number of excessive derogations from the standards set in the Conventions on working time were of particular concern and exposed workers to possible burn out. Social dialogue and collective bargaining had an important role to play in the fixing of limits to hours of work. The Worker members hoped for a rapid increase in the number of ratifications of Conventions Nos 1, 30 and 47. They called on the ILO to launch a campaign to promote the ratification and effective implementation of these instruments, and to provide legal explanations, technical assistance and training on this subject, where necessary.

75. The Employer members recalled that it had already been noted in the 2005 General Survey on hours of work that Conventions Nos 1 and 30 did not fully reflect modern realities in the regulation of working time and that there were elements that were clearly outdated. There had been no new ratification for those Conventions since that time. The provisions of the two Conventions were too detailed and restrictive, in particular: maximum normal working hours, their variable distribution, and possible temporary or permanent exceptions were defined too narrowly; averaging of working hours was only permitted in exceptional cases; exceptions from the normal working hours often required regulation by the government or the public authorities, leaving insufficient room for collective or individual agreements between employers and workers; and the provisions on compensation of overtime were unduly restrictive. The Employer members considered that while health was a relatively objective and broadly accepted concept that could be used in determining working-time limits, the same could not be said with regard to “well-being” and work–life balance. These concepts frequently referred to in the General Survey were subjective and too vague to be used to define working-time limits. In their view, working time was not a good indicator of work performance, and attention had to be placed on results. Finally, they noted that Convention No. 47 establishing the principle of the 40-hour week was ratified only by 15 countries, showing that after more than 80 years this principle was not accepted by the large majority of ILO member States. A new approach on working-time regulations was required that would not be rigid and that would allow employers, workers and institutions to respond to dynamic needs and to find an appropriate balance at every point of their working life or at any stage of the business development.

76. The Government member of Bulgaria, speaking on behalf of the EU and its Member States, as well as Albania, Bosnia and Herzegovina, Georgia, Montenegro and Serbia, highlighted that the number of hours worked had a major impact on the life of workers, in particular on their health and safety and work–life balance. The EU directive on working time was the main regulatory instrument in this area. It protected the health and safety of workers while

at the same time ensuring a level playing field. Protection of workers' health and safety at work as well as the right to work–life balance were also among the principles of the European Pillar of Social Rights proclaimed in November 2017. EU law only permitted certain derogations to regulations on hours of work, such as the establishment of long reference periods on working time, by collective agreement.

77. The Government members of Argentina, India and the Islamic Republic of Iran highlighted that the number of hours worked, together with the way they were distributed, affected the quality of work and life outside of work and noted the possible impact of excessive working hours on the health of workers. At the same time, working hours were central in determining the productivity and sustainability of the company.

78. The Worker member of the Republic of Korea indicated that a deregulation of working hours and too many exceptions allowed in the application of working-time standards were harmful to the health and safety of the workers.

79. A number of Government members provided an overview of their national legislation and compliance with the provisions of the Conventions on hours of work. The Government member of the Republic of Korea indicated that an amendment to the Labour Standards Act in March 2018 had reduced the maximum working hours from 68 to 52 per week.

80. The Worker member of Ghana indicated that workers in the informal economy, which represented about 90 per cent of the total labour force, worked up to 70 hours a week despite the legal limit of 40 hours. The Worker member of the Philippines indicated that despite recent statistics showing that an important part of the workforce was overworked, the national Parliament passed a bill in 2017 on a compressed work week which would increase the eight hours a day to 12 hours a day. The Worker member of the Republic of Korea stated that every year around 300 workers were officially recognized as affected by overwork-related diseases and that there were many cases of suicide related to work. The

Worker member of Switzerland indicated that excessive working hours in the country was shown by the high number of cases of burn out.

Weekly rest

- 81.** The Employer members noted that Conventions Nos 14 and 106 on weekly rest had a higher ratification rate than the Conventions on hours of work. Convention No. 14 was a relatively flexible instrument in that it allowed almost unconditional total or partial exceptions to the normal weekly rest days, as well as exceptions to compensation where it was not possible to grant the weekly rest days. Since Convention No. 106 allowed exceptions to weekly rest only under much stricter conditions, and did not foresee exceptions regarding the provision of compensation, its application could be problematic, especially in particular sectors. In their view, employers and workers should be able to choose in certain limited cases to replace compensatory rest by financial compensation. Finally, they noted that the approach in the recent maritime instruments which provided for a choice to either set maximum working hours or minimum hours of rest seemed worth considering also beyond the maritime sector.
- 82.** The Worker members indicated that despite the higher rate of ratifications of the instruments on weekly rest, too many workers were deprived of their right to a 24-hour weekly rest due to the excessive resort to exceptions provided in the Conventions. This was of particular concern in light of the impact of the absence of weekly rest on workers' health and safety as well as in terms of work–life balance.
- 83.** A number of Government members provided an overview of their national legislation implementing the provisions of the Conventions. The Worker member of Switzerland indicated that draft amendments to the Labour Law which were currently being considered would largely abolish the maximum weekly hours of work and the prohibition of working on Sunday for workers in managerial positions. An observer representing the World Organization of Workers indicated that due to the crisis that affected the Bolivarian Republic

of Venezuela, many workers were forced to work on their days of rest in order to compensate for the low purchasing power associated with their salary in a context of hyperinflation.

Annual holidays with pay

- 84.** The Worker members indicated that due to the numerous exceptions to the rules provided in Convention No. 132, too many workers were deprived of the right to an annual holiday with pay. This was of concern as it had an impact on their health and safety and work–life balance.
- 85.** The Employer members considered that Convention No. 132 was unduly detailed and set limits which seemed to be far from universally recognized. They noted that this instrument had not been classified as up to date by the ILO Governing Body. This was the case for instance with the six-month limit imposed for the qualifying period of service for entitlement to annual leave, a limit which was not respected in many countries. With regard to monetary compensation in lieu of leave, they noted that the Convention did not limit this possibility to cases of termination of employment, as suggested in the General Survey. Monetary compensation that did not concern the minimum annual leave of three working weeks would be in line with the Convention.
- 86.** The Government member of the Republic of Korea pointed out that contrary to what was said in the General Survey, workers in the agriculture sector were entitled to paid annual leave. It also had to be noted that, under the Labour Standards Act, workers who continuously worked for less than a year were granted one day of paid leave for each month attended in full, and that periods during which a worker took time off due to any injury or sickness arising out of duty and periods of leave for maternity and childcare were deemed to be periods of attendance at work for the purpose of the calculation of annual leave.
- 87.** The Employer member of Australia indicated that employees were demanding greater flexibility in their work and that they often requested to carry over unused leave from year to year and to take annual leave as single days.

88. The Worker member of the United Kingdom, speaking also on behalf of the Worker member of the United States, indicated that in the United States there was no law on vacation leave and that, in the United Kingdom, workers were often owed their holiday pay. A Worker member of Colombia indicated that, due to the conditions of employment in Colombia, many workers had not benefited from holidays with pay in many years.

Night work

89. The Employer members stated that according to the General Survey, technological and economic changes had led to an increase in the demand for the round-the-clock provision of certain services. Nevertheless, it seemed that there was no clear trend towards an overall increase of night work and that the share of night workers remained relatively low. The very low rate of ratification of Convention No. 171 indicated that its provisions were too strict and not sufficiently practical to be accepted by a high number of countries. More generally, the approach to comprehensively regulate, in an ILO Convention, one particular form or aspect of work, such as night work, seemed to have proven not to be successful, as evidenced by the low ratification rates of a number of more recent Conventions. Subject to further discussion and findings in the Standards Review Mechanism (SRM), the Employer members suggested that Convention No. 171 may be revised in the context of a consolidation of all instruments on working time. Any future standard dealing with night work should limit itself to setting a broad policy and guidance framework without seeking to regulate details. With regard to the night work of women, there had been a shift in recent decades towards the removal of the prohibition of night work of women in industry in light of the principles of non-discrimination and equality of treatment. Protective measures for women working at night should normally not go beyond maternity protection.

90. The Worker members noted that, according to the General Survey, there was an upward trend in night work, while at the same time, more and more scientific studies were showing the negative effects of night work on the health of the workers concerned. The General

Survey also highlighted the risks for pregnant women and the lack of available social services for night workers.

- 91.** The Government member of India indicated that the existing ban on night work for women should be examined in view of the limitations that this created on employment opportunities for women. Women should be permitted to work at night with appropriate safety measures, transport and medical facilities and a health environment guaranteeing their protection. National legislation and international instruments should be revised accordingly. The Employer member of India stated that the lifting of the ban on women working on night shift was being recommended in light of economic and social considerations. The Government member of the Philippines referred to the adoption of regulations on night work, in response to the increase in night work and the need to provide the necessary protection to employees engaged in night work who experienced considerable disruption of family life and social activities, fatigue, anxiety, depression and adverse cardiovascular effects.

Part-time work

- 92.** The Employer members noted that part-time work had become a regular form of employment throughout the world. The collection of statistical data could help better understand the evolving needs of both workers and employers regarding work in general and part-time work in particular. Noting the low rate of ratification of Convention No. 175, they recalled its contentious adoption process during which employers had considered that it unduly restricted the necessary flexibility of part-time work and thus its employment creation potential. They challenged the view reported in the General Survey that low wages was a major motivation for employers to employ part-time workers. Part-time work was above all a means for employers to have operational flexibility and to retain workers wishing to work part-time. It responded to the necessary flexibility for employers and workers to meet the needs in the economy and the labour market and allowed the entry or re-entry into the labour market of certain groups of workers, for instance women and people suffering health problems. On average, part-time workers were working enough to gain sufficient

income. The Employer members also noted that the Convention did not provide for a right to transfer from full-time to part-time work and vice versa, but only stipulated that such transfer could be made on a voluntary basis, where appropriate, which meant that any such transfer could only be considered within the possibilities of an enterprise.

93. The Government member of Brazil reported the recent changes to the labour legislation which provided that all part-time workers enjoyed 30 days paid leave regardless of their weekly workload, compared to 18 days at the most, prior to the reform. The Government member of Algeria noted that part time often responded to the need to better reconcile work and family responsibilities, which had a positive effect on employment, particularly for women.

94. The Worker member of Italy indicated that in light of the traditional distribution of family responsibilities, three quarters of part-time employees in the country were women. For many of them, part-time was not a choice. The Worker member of Brazil indicated that the legislative reforms adopted in 2017 introduced several provisions which contradicted the principles of decent working time, including the contract modality of intermittent work.

Working time in non-traditional forms of work organization

95. A number of members of the Committee highlighted the importance of reflecting on working-time arrangements in the context of non-traditional forms of organizing work.

96. The Employer members indicated that economic and social changes over recent decades had resulted in increasingly diverse working-time arrangements. Flexitime arrangements were adopted as much to facilitate work–life balance, education and increased participation, as for specific business reasons. As these new realities may raise new challenges, research should be conducted on factors influencing the development of various types of working-time arrangements. This should include examination of the specific issues related to disabled workers.

97. The Government member of Bulgaria, speaking on behalf of the EU and its Member States, as well as Albania, Bosnia and Herzegovina, Georgia, Montenegro and Serbia, considered that the new challenges arising from new economic, demographic and technological developments required that working-time arrangements and regulations, as well as the issues related to their enforcement, received constant attention. The positive references in the General Survey to the provisions of the EU law on shift work and on-call hours were welcomed.

98. The Government member of Norway, speaking on behalf of the Nordic countries, indicated that developments and trends in the world of work and the effects of new technologies needed to be considered, together with the pressures arising out of globalization, the issues of work–life balance and the growing of the “gig economy” and the care economy which often required work around the clock.

99. A number of other Government members, including India, the Islamic Republic of Iran and Kenya, noted that it was necessary to examine the impact of emerging working-time issues like “zero hours” contracts and other forms of on-call work as well as telework.

Flexible working-time arrangements in national legislation and practice

100. The Workers members indicated that working hours averaging schemes, when applied over too long periods, risked jeopardizing the health and well-being of workers as well as their work–life balance.

101. The Government member of the Philippines made reference to the national regulations on the implementation of compressed work-week schemes which encouraged employers and workers to enter into voluntary agreements to adopt such mutually acceptable schemes.

102. The Worker member of Italy referred to the Amazon agreement on the organization of work shifts adopted in May 2018 which was the first of its kind signed by the company with trade union organizations.

- 103.** The Worker members considered that it was not acceptable that digital platforms imposed that workers concluded contracts which were not employment contracts, with the purpose of avoiding labour law. They recalled that Recommendation No. 198 established the principle of the “primacy of facts” whereby the determination of the existence of an employment relationship should be guided by the facts relating to the actual performance of work and not on the basis of how the parties describe the relationship.
- 104.** The Employer members considered that the new forms of work, such as on-call work or on-demand work and telework addressed in the General Survey had little connection with the standards examined which in fact did not address these issues. These new forms of work had in common that they provided more autonomy and flexibility, including in the organization of working time. This had led to a blurring of the dividing lines between an employment relationship and self-employment. The classification of activities as employment or self-employment should be seen as an open-ended process that required constant observation of the developments and, if need be, adaptation of the demarcation criteria. However, the Employer members warned against the tendency to try to mechanically press traditional employment relationship patterns to new forms of activity and to regulate them as such, as this could potentially hinder the development of new work opportunities. They stressed that, while the ILO had competence for employment relationships, it was not competent for commercial contracts and self-employed persons. New forms of work were bringing overall advantages for enterprises and workers. Advantages for workers of telework included a reduction in commuting times, greater autonomy and flexibility in the organization of work, a better work–life balance and higher productivity. There may also be certain disadvantages, such as the tendency to work longer hours, to create an overlap between paid work and personal life (work–home interference) and the intensification of work. However, they considered that these possible disadvantages depended to a significant extent on individual perceptions and preferences. In relation to work–home interference and the question of

whether there was a need for a “right to be disconnected”, the respective perceptions seemed also to be subject to a generational change.

- 105.** The Government member of Bulgaria, speaking on behalf of the EU and its Member States, as well as Albania, Bosnia and Herzegovina, Georgia, Montenegro and Serbia, noted that with regard to the gig economy and on-demand work, the Committee of Experts had indicated that consideration may be given to the ILO Employment Relationship Recommendation, 2006 (No. 198). The need to protect workers where their contractual arrangements deprived them of their rights in respect of working time was acknowledged. Following up on the European Pillar of Social Rights, the EU was currently considering possible new legislation with the aim of establishing workers’ basic right to predictability of work and securing the effective enforcement of workers’ rights to information about their working conditions.
- 106.** The Government member of Senegal noted that the new working arrangements under the digital influence were transforming labour relations and working-time regulations. New working arrangements, such as teleworking, raised difficulties in terms of labour protection, regarding hours of work unpredictability and revenue insecurity. The workers concerned were frequently considered as independent entrepreneurs and did not benefit from the same rights as workers under traditional labour relationships. At the same time, these arrangements could allow a certain working-time flexibility.
- 107.** The Worker member of the United Kingdom, also speaking on behalf of the Worker member of the United States, indicated that the growth in precarious work had created new difficulties for working people, including zero hours contracts, agency work or low paid self-employment. Unpredictable working hours made it impossible to organize childcare while uncertainty over take-home pay left workers struggling to manage household bills. Zero hours workers also lacked the basic protections needed to challenge bad practice at work and were subject to bullying and degrading treatment. In parts of the gig economy,

workers faced excessive surveillance and work intensification and did not benefit from paid holidays.

- 108.** The Worker member of Uruguay noted that technology had allowed increased productivity. However, changes in work organization facilitated by technology had led to a lack of protection for workers. Workers were more isolated and there were no trade unions to defend them. In several labour reform processes, like in France, Brazil or Argentina, workers were not consulted. In the Mercosur, the Social and Labour Declaration should be above the labour reforms carried out in the region. An example of good practice in this field was the reduction of the length of the working day in the metal sector of Uruguay, where work had been shared thanks to technology.
- 109.** The Worker member of France stated that the new digital tools had blurred the boundaries between working time and private life. In the digital economy, regulation of working conditions should be reinforced in order to avoid abuses in the name of flexibility. The right to be disconnected was essential in ensuring limits between private life and professional life. Boundaries were also blurred between workers and employers through the creation of grey zones where workers became self-employed with no access to labour rights. This was also a way of preventing workers from collectively organizing themselves against regressive working conditions.
- 110.** The Worker member of the Netherlands made reference to several new flexible working-time arrangements that had in common the unpredictability of working hours and the lack of clear boundaries between working time and time off. Broken work patterns, zero hours contracts, new information and communications technology developments, and flexible schedules in the gig economy entailed unpredictable and undefined working-time arrangements which made it very difficult to combine work with care responsibilities.
- 111.** The Worker member of Italy indicated that recent laws on teleworking and smart working had affected in depth the organization of work and contributed to the progressive dismantling

of the protection provided for under a standard employment relationship. Replacement of workers by robots or artificial intelligence raised the question of the redistribution of the remaining work. A Worker member of Colombia expressed concern at the generalization of non-standard forms of employment. An observer representing the International Transport Workers' Federation indicated that even where courts had correctly held that platform-based ride-hailing drivers were not genuinely self-employed persons, the nature of platform work was raising questions as to what actually counted as working time. This could be addressed by extending general principles underpinning working time to platform work.

- 112.** The Employer member of Australia considered that certain entirely legitimate and legal forms of work, that were delivering both flexibility and jobs, were being deliberately vilified and misrepresented. These work options were critically important to meeting increasingly diverse and individual employee preferences on working time.

Social dialogue and collective bargaining

- 113.** The Worker members indicated that the General Survey showed the importance of social dialogue, notably in setting limits to working hours and ensuring work–life balance. Agreements between employers' and workers' organizations could, for example, fix the reference period for averaging weekly hours of work or determine the circumstances in which overtime was possible. More generally, social dialogue should protect workers in case of derogation from basic rules. Given the fact that many categories of workers did not have the opportunity to participate in the social dialogue process or to designate their representatives democratically, many workers were finding themselves in a weak position vis-à-vis employers' requests for flexibility. The situation was often difficult in the smallest establishments, where unions were not present. In the case of on-demand work or the gig economy, union presence was also limited. The General Survey had noted the importance and significant contribution of collective agreements to protect the health and well-being of workers and strengthen social cohesion.

114. The Employer members noted that most ILO Conventions on working time required consultations of social partners when implementing their provisions in national law and practice. Several Conventions also provided for collective agreements as a means of implementation. Social partners therefore played a key role in the regulation and organization of working time. The Employer members welcomed the tendency in many countries to decentralize collective bargaining, including on working-time aspects, to the enterprise level and to allow enterprise agreements to derogate from higher level collective agreements. Such an approach enabled the parties at the enterprise level to determine working-time solutions that were more tailored to their needs. In order to provide sufficient space for enterprise-level arrangements, the legal framework needed to be sufficiently flexible. While they agreed that national law and practice, including collective agreements, had to be in conformity with ratified Conventions, they recalled that responsibility for compliance with those Conventions was only with the government, and not the parties to a collective agreement.

115. The Government member of Bulgaria speaking on behalf of the EU and its Member States, as well as Albania, Bosnia and Herzegovina, Georgia, Montenegro and Serbia, welcomed the recognition in the General Survey of the importance of social dialogue and collective bargaining for the regulation of working time. Effective social dialogue was the cornerstone of the European social model and it was a prerequisite for the functioning of Europe's social market economy. This was why the social partners were consulted on the direction and content of envisaged EU instruments in the field of social policy. As a result, a number of agreements, including the part-time work directive and most sectoral directives on working time, were directly agreed between the social partners.

116. The Government member of Norway speaking on behalf of the Nordic countries noted that, in their countries, working time was to a large extent regulated by collective agreements between the social partners. There were few mandatory rules on the subject. Working-time regulation was a complex issue and needed to be balanced, both for the protection of workers

and for the promotion of sustainable enterprises. The labour legislation and labour market models left most of this regulation to be negotiated between the social partners, with exception for the upper and lower limits for working hours, rest periods and paid leave.

117. The Government member of Argentina stated that working hours were determined through collective bargaining, as this was essential to ensure that the needs of both parties were met. The Government member of Algeria noted that whether at the national, branch or company level, social dialogue played an important role in the regulation of working time. The Government member of Kenya noted that given the transformation currently taking place in the world of work, the regulation of working time was all the more important and could be achieved through adopting or strengthening national laws and policies and ensuring the right to organize and bargain collectively so that the interests of all stakeholders could be accommodated. The Government member of Senegal stressed the centrality of collective bargaining in the process of designing regulations on working time.

118. The Employer member of Australia considered that there was a need to better encourage the use of collective bargaining to deliver innovations in the organization of working time in the country. This would help improve productivity and efficiency for more enterprises and work–life balance for more employees. National laws were increasingly failing to harness the power of positive relationships between employers and workers. This was of concern as increasingly technical application of the complex employment laws could put trust between the social partners and flexibility at risk.

119. The Worker member of Italy noted that in the Italian practice, collective bargaining played a central role in defining most of the working-time schedules and was recognized as a source of law in the national system of industrial relations. National level collective agreements usually specified the areas of working-time arrangement and flexibility devolved to territorial collective bargaining and to company bargaining. The Worker member of India indicated that the increase of precarious work had impacted the possibility to negotiate

collectively the terms of employment. A Worker member of Colombia considered that collective bargaining was the appropriate mechanism to regulate working-time issues.

Measures taken to ensure compliance with national laws and regulations on working time

120. The Employer members noted that enforcement included a variety of measures, such as the keeping of records of working time, labour inspection, the need to obtain authorization from the competent authorities, the involvement of the social partners, and penalties for non-compliance. They considered that rationalization of State regulations, including by limiting them to what was of public interest (such as the protection of workers' health) as opposed to regulations that, in addition, aimed at better work–life balance or improved workers' well-being, could contribute to reducing enforcement efforts and thus to achieving better compliance. Possibilities to delegate enforcement to the social partners, individual agreements or other mechanisms, should also be explored. The enforcement of certain working-time provisions by public authorities may not always be necessary, as long as workers could take action in court. Moreover, enforcement efforts by the competent authorities could be concentrated on those areas where infringements could have particularly damaging effects and where control was normally difficult, such as in the informal sector or agriculture. They noted that only Conventions Nos 1 and 30 required enforcement by means of penalty. Given that these two instruments contained, to a large extent, outdated and inappropriate working-time rules, insisting on penalties for their enforcement seemed problematic. The more recent working-time Conventions did not specifically prescribe penalties but permitted any means of enforcement. This could point to a change of perception to the effect that penalties were no longer considered indispensable in the case of infringements of working-time regulation and that there were often more appropriate means of enforcement. Finally, noting that the General Survey stressed the need for penalties to be dissuasive, the Employer members considered that it was necessary to point out that penalties, where they were imposed, had not to be disproportionate. In particular, prison sentences should be the absolute exception for extreme offences.

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- 121.** The Worker members noted that the best legislation was ineffective in the absence of a mechanism of control that guaranteed its application, made it binding and, if necessary, imposed penalties for serious infringements. This was also in the interest of the employers as without this mechanism, they would suffer an unfair competition from employers who were less scrupulous in the application of the rules. The General Survey noted that the lack of staff and resources dedicated to inspection services was a recurring problem in all regions of the world. In addition, it was impossible to monitor compliance with applicable standards if there was no reliable system for notifying and recording hours of work and rest periods.
- 122.** The Government member of Bulgaria, speaking on behalf of the EU and its Member States, as well as Albania, Bosnia and Herzegovina, Georgia, Montenegro and Serbia, noted the importance of undertaking a combination of preventive and enforcement activities to achieve compliance with legal provisions related to working time.
- 123.** The Government member of Egypt expressed support for the adoption of new mechanisms and techniques to enforce the provisions on working time through the performance of labour inspection and the imposition of dissuasive sanctions. The Government member of Argentina stated that it was key to have rigorous working-time records and timely inspections. For this purpose, countries should take advantage of new technologies. The Government member of Senegal noted that labour inspectors had a primary role to play in the enforcement of working-time provisions at the national level, which was why the Government had embarked on a policy of strengthening the labour inspection services in terms of human, financial and material resources. The Government member of Côte d'Ivoire indicated that provisions that aimed at guaranteeing a decent working time were regularly enforced by the labour inspection department and that controls were particularly focusing on the respect of the principles of eight hours of daily work and weekly rest, on the prohibition of night work for certain categories of workers, on the needs of workers with disabilities and on all activities that jeopardized the health and safety of workers.

124. The Worker member of the United Kingdom, speaking also on behalf of the Worker member of the United States, indicated that poor enforcement of working-time regulations meant that law-abiding firms faced unfair competition from companies who undercut standards or who misclassified individuals as self-employed.

125. Particular challenges were also highlighted with regard to the enforcement of working-time provisions in the informal economy, including by Worker members of Colombia.

Challenges to the implementation of the instruments in specific sectors

126. A number of members of the Committee highlighted existing challenges related to working time in the informal economy. They also referred to difficulties in certain sectors, such as the health sector, transport, domestic work, manufacturing, and the security sector.

Informal economy

127. The Worker member of Ghana stressed that workers in the informal economy represented 90 per cent of the workforce and that their precarious situation and low wages made it difficult for them to request reasonable hours of work and time for rest. A Worker member of Colombia indicated that informality was an obstacle to the implementation of regulations on hours of work. An observer representing the International Trade Union Confederation (ITUC) stressed that workers in the informal economy did not have a fixed schedule and that employers often refused to pay them overtime.

128. The Employer members indicated that enforcement efforts by the competent authorities might be concentrated on situations such as the informal economy where infringements were particularly damaging and where control was difficult.

129. The Government member of Norway, speaking on behalf of the Nordic countries, highlighted that the growing informality had to be borne in mind when addressing working time. The Government member of the Philippines noted that the legislation on working time often did not apply to the informal economy and hoped for further discussions on the issue.

Health sector

130. With respect to health services, the Worker member of Togo recalled that activity in this sector was uninterrupted, which meant long hours and work during the night. As the sector was affected by labour shortages, workers were also prevented from the possibility of taking rest or leave, at the expense of their health and family lives. Accumulated fatigue of medical workers also placed the lives of the patients in danger. A new international labour instrument was needed to ensure decent working time in the health sector. A Worker member of Colombia highlighted that in addition to the hours actually worked, medical workers were often required to remain on call.

Transport

131. The Worker member of the Philippines stressed the importance of working time in labour-intensive sectors such as transport. A Worker member of Colombia referred to the situation of pilots who were required to work long shifts and remain on call afterwards. An observer representing the International Transport Workers' Federation stressed that international labour standards on working time remained relevant for transport workers. Sufficient trucker rest areas as well as standard pay rates for drivers were important measures to protect workers and reduce pressure to work excessive hours. In certain cases, excessive overtime resulted from the uninterrupted functioning of infrastructures, such as the Panama Canal. Workers in commercial fishing were also often exposed to excessive working hours.

Domestic workers

132. The Employer member of India stressed that domestic workers, who often worked for more than one employer, needed particular attention. An observer representing the ITUC called attention to the hardship suffered by domestic workers, often working in the informal economy. They did not have a fixed working schedule and sometimes worked 24 hours a day. In most cases, they did not benefit from annual holidays, were paid below the minimum wage and were dismissed without notice.

Manufacturing

133. An observer representing the ITUC stressed that workers in the manufacturing sector did not have fixed schedules and were denied payment of the hours worked in overtime. An observer representing IndustriALL Global Union stressed that the severe working-time challenges in the manufacturing sector related to the business model, based on the outsourcing of production. This created a global race to the bottom in working conditions to attract foreign investments at the expense of workers. Governments did not take responsibility for the activities of their companies abroad and local authorities were often unwilling or unable to enforce the legislation on working time. Binding rules and enforceable agreements were necessary to enhance traceability and accountability in supply chains and to ensure compliance with core labour standards. In many countries of production, provisions on weekly rest and annual leave did not exist. Furthermore, workers accumulated overtime paid below the mandatory rates and working-time records did not reflect the number of hours actually worked. As a result of long hours of work, workers in these sectors accumulated fatigue and were exposed to high risks of occupational injuries. Another challenge concerned the inability for workers to exercise their right to freedom of association and to bargain collectively. The situation of workers in export processing zones was of particular concern. Measures had to be taken to enhance workplace compliance with national legislation and collective agreements on working hours in textile garment industries.

Security sector

134. A Worker member of Colombia indicated that penitentiary guards were required to work more than 80 hours per week, causing grave consequences for their health. An observer representing the ITUC stressed that security guards also worked without fixed schedules and were not paid overtime.

Possible ILO action

135. The members of the Committee indicated possible action that the ILO could take in follow-up to the General Survey.

1. Standards-related action

136. The Government member of Bulgaria speaking on behalf of the EU and its Member States, as well as Albania, Bosnia and Herzegovina, Georgia, Montenegro and Serbia, indicated that they looked forward to an examination by the ILO tripartite constituents of the steps that could be taken to further promote the Conventions under examination, to enable these instruments to achieve their full potential and if applicable, to consolidate and update them without lowering the level of protection they provided. They hoped that the discussion of the General Survey would make a useful contribution to the tripartite meeting of experts on working time and work–life balance and to the work of the Tripartite Working Group of the Standards Review Mechanism.

137. The Government member of Morocco stressed the importance of updating ILO standards on working time by consolidating them in a new instrument which would take into account recent developments in the world of work and by adopting new instruments to regulate modern arrangements such as telework. The Government member of Kenya expressed support for the development of a consolidated instrument that would take into consideration all the fundamental elements provided in the General Survey, including equality for men and women workers, with a view to ensuring that standards on working time would contribute to the human rights approach to the regulation of these matters and further make it possible for workers to reconcile work and private and family life. The Government member of Norway, speaking on behalf of the Nordic countries, considered that the discussion of the General Survey would be an important input to the tripartite meeting of experts on working time and work–life balance and to the work of the Tripartite Working Group of the Standards Review Mechanism.

138. The Employer members stressed the need to address the obvious lack of relevance and acceptance of the working-time standards under examination. Conventions Nos 1 and 30 were considered as more or less “outdated”. Convention No. 47 had been ratified by only 15 countries. Moreover, the case of earlier sectoral Conventions on maximum hours for

particular sectors, such as textile or coalmines, which had never been ratified and had been withdrawn by the Conference, demonstrated that the setting of ILO standards on maximum hours of work was not successful. The two most recent Conventions examined, Conventions Nos 171 and 175, also showed a very low ratification rate which raised doubts about their actual relevance. They also considered that the approach to set standards on specific aspects of working time, such as on night work and part-time work, had reached an impasse. Furthermore, Convention No. 132 on annual paid leave was not widely ratified and had not been considered up to date by the Governing Body. Convention No. 14 on weekly rest (industry) had attracted a relatively significant number of ratifications, which could indicate that standards on minimum rest periods met with wider acceptance than standards on maximum working hours. They concluded that the role of international labour standards in the field of working time was probably much more limited than it may have been considered to date.

139. The Worker members were opposed to proposals which would dilute existing minimum standards through any process of consolidation or revision, as the existing standards were extremely flexible and allowed exceptions which made it possible to take national situations fully into account. In view of the challenges arising in relation to the existing instruments, which nevertheless set out clear basic principles and important protection for all workers, it would be of no avail to devote time to the formulation of a new instrument. The approach adopted for sectoral instruments, such as the Hours of Work and Rest Periods (Road Transport) Convention, 1979 (No. 153), and the Maritime Labour Convention, 2006, as amended, which had made it possible to reinforce the general principles of working time in instruments adapted to specific sectors, still remained valid.

2. Development cooperation
and technical assistance

140. The Worker members encouraged the ILO to launch a campaign to promote the ratification and effective implementation of the Conventions covered by the General Survey and to

provide legal clarifications, technical assistance and training as necessary. The Office should strengthen its technical assistance, in particular for capacity building and for political support.

141. The Government member of Kenya noted that technical assistance would be necessary in ensuring enforcement of working-time provisions and in making use of new technologies for the measurement of working hours.

Concluding remarks

142. The Employer members noted that 12 instruments concerning working time were included in the initial programme of work of the Standards Review Mechanism (SRM) Tripartite Working Group. When examining the issues under consideration, the SRM Tripartite Working Group would be called to assess the specific value added of standards in this field and to consider a better synchronization and division of roles with other ILO means of action, including guidance materials. The overall architecture of future ILO standards should be taken into account. Given the lack of a universal acceptance of most working-time standards that emerged from the General Survey, individual revisions of these standards, which in an isolated way addressed specific aspects of working time, did not seem to be a meaningful exercise to undertake. One possible way forward may be to adopt a framework instrument that would address working-time policies and principles, alone or within the context of overall working conditions. Rather than setting maximum or minimum working-time limits, the instrument may specify the considerations that needed to be taken into account in setting them, such as employers' need for flexibility, workers' needs for protection, and governments' needs for achieving overall labour market outcomes. The framework instrument should be open to new developments in the field of working time and be easily adaptable. It could be complemented by guidance materials on specific working-time aspects, such as sectoral codes of practice, handbooks, case studies and databases on working-time regulations. An ILO framework instrument that replaces all existing

instruments in the field of working time could become a high-profile instrument reflecting and compiling ILO competence in this area.

143. The Employer members considered that, pending the examination in the SRM Tripartite Working Group and any action taken following the recommendations of the SRM, some interim measures seemed necessary. Concerning Conventions Nos 1 and 30, the situation was particularly problematic, as ratifying countries were probably trying to silently circumvent certain outdated obligations of the Conventions and the ILO supervisory bodies may be in an embarrassing situation as they had to criticize acceptable current working-time practices that were not in line with the outdated provisions of the Conventions. This could have negative effects for the credibility of ILO standards in general. The Employer members therefore suggested that, as an interim measure, the two Conventions be shelved and ratifying countries may consider their denunciation. As regards the other Conventions examined in the General Survey, they considered that ways to concentrate reporting on crucial provisions and pool their supervision should be looked into.

144. The Worker members encouraged the ILO to launch on an urgent basis an intensive campaign to promote the ratification and effective implementation of the instruments covered by the General Survey, and to provide legal explanations, technical assistance and training on this subject, where necessary. The competent bodies of the ILO would also have to play a proactive role in order to clarify the misunderstandings reported by the Committee of Experts in relation to the 16 instruments. Recalling that the regulation of working time was essential for the achievement of social justice, they welcomed the recognition of the limits of eight hours a day and 48 hours a week. Noting that the scope of the Conventions offered considerable flexibility which allowed countries to exclude certain categories of workers from the definitions and the application of important provisions, they expressed concern at the large number of excessive exemptions from the standards set in the Conventions and they recalled the importance of consulting the social partners before establishing any special schemes or exemptions. Collective agreements had an important

role to play in protecting the health and well-being of workers and reinforcing social cohesion. Overtime hours and other forms of flexibility endangered the health and well-being of workers and the balance between work and private life. The Worker members emphasized that the lack of personnel and resources of inspection services was a recurrent problem in all regions of the world. In order to enforce compliance with the applicable standards, reliable systems were required for the notification and recording of working time and rest periods. It was important for the authorities to ensure the establishment of effective means of enforcing working-time provisions, principally through labour inspection, and the imposition of dissuasive penalties in the event of violations.

145. The Worker members recalled that they were opposed to proposals which would dilute existing minimum standards through any process of consolidation or revision, as the existing standards were extremely flexible and allowed exceptions which made it possible to take national situations fully into account. They expressed support for the organization of an in-depth tripartite meeting on issues of conformity with the working-time instruments.

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Outcome of the discussion of the General Survey concerning the instruments on working time

146. The Committee examined the draft outcome of its discussion of the General Survey concerning the instruments on working time.
147. The Committee approved the outcome of its discussion, which is reproduced below.

D. Compliance with specific obligations

1. Cases of serious failure by member States to respect their reporting and other standards-related obligations

148. During a dedicated sitting, the Committee examined the cases of serious failure by member States to respect their reporting and other standards-related obligations.⁵ As explained in document D.1, part V, the following criteria are applied: failure to supply the reports due for the past two years or more on the application of ratified Conventions, failure to supply first reports on the application of ratified Conventions for at least two years, failure to supply information in reply to all or most of the comments made by the Committee of Experts, failure to supply the reports due for the past five years on unratified Conventions and Recommendations, failure to submit the instruments adopted for at least seven sessions to the competent authorities, and failure during the past three years to indicate the representative organizations of employers and workers to which, in accordance with article 23(2) of the Constitution, copies of reports and information supplied to the Office under articles 19 and 22 have been communicated. The Chairperson explained the working methods of the Committee for the discussion of these cases.

149. The Employer members recalled that the functioning of the ILO supervisory system was based primarily on the information provided by governments in their reports. Compliance with reporting obligations was therefore crucial for an appropriate and effective supervision of ILO standards. The number of reports under article 22 of the ILO Constitution, which had been received by 1 September 2017, remained low, and the number of instances in which no information had been supplied in reply to comments made by the Committee of Experts, continued to be high. They regretted that, despite all efforts, it had not been possible to achieve visible progress on these long-standing issues. Submissions by workers and

⁵ Detailed information on the examination of these cases is contained in section A of Part Two of this report.

employers' organizations could add to the factual basis and provide a reality check but could not replace government reports. While the Office, within its existing financial and human resources capacities, should continue to provide assistance to governments in meeting these obligations, reporting was ultimately a government responsibility. It was the decision of governments to ratify Conventions, and ratification entailed reporting obligations. The Employer members noted with concern that none of the reports due had been sent for the past two or more years by 15 countries. Furthermore, 61 of the 95 first reports due had been received by the time the Committee's session had ended, and 13 member States had failed for two or more years to supply a first report, albeit the basis for a timely dialogue between the Committee of Experts and the member State on the application of the ratified Convention. They encouraged the governments concerned to request technical assistance from the Office and submit the first reports without delay. The Employer members welcomed the decision taken by the Committee of Experts, following a proposal made by the Employer members, to institute the practice of launching "urgent appeals" on cases corresponding to certain criteria of serious reporting failure and to draw the attention of the Conference Committee to these cases, so that governments could be called before the Conference Committee and, in the absence of a report, the Committee of Experts might examine the substance of the matter at its next session. With respect to reports under article 19 of the ILO Constitution, 38 countries had not sent reports on unratified Conventions and Recommendations for the past five years, despite their importance for the comprehensiveness of General Surveys. As to the submission of instruments adopted by the Conference to the competent authorities, the Employer members noted with concern that 31 member States had failed to meet this constitutional obligation, while welcoming the efforts made by a number of countries to overcome the delays in submission.

- 150.** The Worker members said that it was essential to keep the special sitting since it highlighted the large number of countries which did not respect their constitutional obligations. These failures endangered the smooth functioning of the ILO supervisory system. The sitting

provided the occasion to invite countries that were not respecting their obligations to do so. The reduction in the number of reports received by comparison with the previous year was continuing. Moreover, 15 countries had not supplied the reports due for at least two years and 13 countries had not submitted first reports for at least two years. First reports that were due following a ratification were very important since they enabled an initial evaluation of the application of the Conventions concerned. In addition, 43 countries had not replied to the observations and direct requests made by the Committee of Experts. Such negligence had an adverse impact on the work of the supervisory bodies. The Worker members invited the governments concerned to send all the requested information. The production of General Surveys was also based on the reports supplied by ILO member States. It was therefore crucial that the latter should send their reports to provide the Committee with an overview of the application of ILO instruments in law and in practice, even in countries which had not ratified the Conventions concerned. In that regard, the Worker members expressed regret that 38 countries had not supplied any information for the last five years for the purposes of the General Surveys. These States would otherwise have contributed to the General Survey. The Worker members called for the positive initiatives, already taken by the Office to ensure better monitoring of the countries where there had been serious failure to meet constitutional obligations, to be strengthened in order to reverse the negative trend observed this year.

- 151.** Regarding the obligation under the ILO Constitution to indicate the representative organizations of workers and employers to which copies of the reports on ratified Conventions had been sent, the Worker members reminded the two States concerned that it was essential that the social partners should be involved in the supervision of the application of international labour standards in their countries. With regard to cases of serious failure to submit, the Worker members recalled the importance of ensuring tripartite participation at national level in the ILO standards-setting process. They expressed regret that in their conclusions only around 20 member States of the 66 countries invited to take the floor, had come before the Committee to provide information on the serious failures noted. They also

took note of the practical difficulties encountered by certain member States to fulfil their obligations. In that regard, the Office should ensure ongoing, attentive action with regard to member States by providing them with all necessary assistance to enable them to discharge their obligations. They also noted the need for training expressed by certain member States and called on the Office to commit to strengthening the provision of training in that area. The Worker members concluded by appealing to all governments concerned to, as quickly as possible, bring an end to the serious failures to fulfil their constitutional obligations.

1.1. *Failure to submit Conventions, Protocols and Recommendations to the competent authorities*

152. In accordance with its terms of reference, the Committee considered the manner in which effect was given to article 19(5), (6) and (7) of the ILO Constitution. These provisions required member States within 12, or exceptionally 18, months of the closing of each session of the Conference to submit the instruments adopted at that session to the authority or authorities within whose competence the matter lies, for the enactment of legislation or other action, and to inform the Director-General of the ILO of the measures taken to that end, with particulars of the authority or authorities regarded as competent.

153. The Committee noted that, in order to facilitate its discussions, the report of the Committee of Experts mentioned only the governments which had not provided any information on the submission to the competent authorities of instruments adopted by the Conference for at least seven sessions (from the 95th Session (2006) to the 104th Session (2015), because the Conference did not adopt any Conventions and Recommendations during the 97th (2008), 98th (2009), 102nd (2013) or 105th (2016) Sessions). This time frame was deemed long enough to warrant inviting Government delegations to the dedicated sitting of the Committee so that they may explain the delays in submission.

154. The Committee took note of the information and explanations provided by the Government representatives who took the floor during the dedicated sitting. It noted the specific difficulties mentioned by certain delegates in complying with this constitutional obligation,

and in particular the intention to submit shortly to competent authorities the instruments adopted by the International Labour Conference. Some governments have requested the assistance of the ILO to clarify how to proceed and to complete the process of submission to national parliaments in consultation with the social partners.

155. The Committee expressed deep concern at the failure to respect the obligation to submit Conventions, Protocols and Recommendations to national parliaments. It recalled that compliance with the obligation to submit Conventions, Protocols and Recommendations to national competent authorities was a requirement of the highest importance in ensuring the effectiveness of the ILO's standards-related activities. It also recalled that governments could request technical assistance from the Office to overcome their difficulties in this respect.

156. The Committee noted that the following countries were still concerned with the serious failure to submit the instruments adopted by the Conference to the competent authorities: **Azerbaijan, Bahamas, Bahrain, Belize, Comoros, Croatia, Dominica, El Salvador, Equatorial Guinea, Fiji, Gabon, Guinea-Bissau, Haiti, Kiribati, Kuwait, Kyrgyzstan, Liberia, Libya, Pakistan, Papua New Guinea, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Samoa, Seychelles, Sierra Leone, Solomon Islands, Somalia, Syrian Arab Republic and Vanuatu.** The Committee expressed the firm hope that appropriate measures would be taken by the Governments concerned to comply with their constitutional obligation to submit.

1.2. *Failure to supply reports and information on the application of ratified Conventions*

157. The Committee took note of the information and explanations provided by the Government representatives who took the floor during the dedicated sitting. Some governments have requested the assistance of the ILO. The Committee recalled that the submission of reports on the application of ratified Conventions was a fundamental constitutional obligation and the basis of the system of supervision. It also recalled the particular importance of the

submission of first reports on the application of ratified Conventions. It stressed the importance of respecting the deadlines for such submission. Furthermore, it underlined the fundamental importance of clear and complete information in response to the comments of the Committee of Experts to permit a continued dialogue with the Governments concerned. In this respect, the Committee expressed deep concern at the failure to respect these obligations and recalled that the ILO could provide technical assistance to contribute to compliance in this respect.

158. The Committee noted that, by the end of the 2017 meeting of the Committee of Experts, the percentage of reports received (article 22 of the ILO Constitution) was **66.5** per cent (69.5 per cent for the 2016 meeting). Since then, further reports had been received, bringing the figure to **74.1** per cent (as compared with 77.3 per cent in June 2017).

159. The Committee noted that no reports on ratified Conventions had been supplied for the past two years or more by the following States: **Cook Islands, Dominica, Equatorial Guinea, Gambia, Guinea-Bissau, Haiti, Malaysia – Sabah, Saint Lucia, Solomon Islands, Somalia, Timor-Leste and Vanuatu.**

160. The Committee also noted that first reports due on ratified Conventions had not been supplied by the following countries for at least two years: **Belize, Comoros, Congo, Cook Islands, Equatorial Guinea, Gabon, Guyana, Republic of Maldives, Nicaragua, Saint Vincent and the Grenadines, Serbia and Somalia.**

161. The Committee noted that no information had yet been received regarding any or most of the observations and direct requests of the Committee of Experts to which replies were requested for the period ending 2017 from the following countries: **Barbados, Belize, Botswana, Brunei Darussalam, Chad, Djibouti, Dominica, Equatorial Guinea, Gambia, Grenada, Guinea-Bissau, Haiti, Kiribati, Kyrgyzstan, Liberia, Malawi, Malaysia, Malaysia (Peninsular Malaysia, Sabah and Sarawak), Mozambique, Netherlands (Curaçao), Papua New Guinea, Saint Lucia, Saint Vincent and the**

Grenadines, Sierra Leone, Singapore, Solomon Islands, Somalia, Timor-Leste, Trinidad and Tobago, Vanuatu and Yemen.

1.3. Supply of reports on unratified Conventions and Recommendations

162. The Committee stressed the importance it attached to the constitutional obligation to supply reports on unratified Conventions and Recommendations. In effect, these reports permitted a better evaluation of the situation in the context of the General Surveys of the Committee of Experts. In this respect, the Committee expressed deep concern at the failure to respect this obligation and recalled that the ILO could provide technical assistance to contribute to compliance in this respect.

163. The Committee noted that over the past five years none of the reports on unratified Conventions and Recommendations, requested under article 19 of the Constitution, had been supplied by: **Afghanistan, Angola, Armenia, Belize, Botswana, Chad, Congo, Cook Islands, Dominica, Eswatini, Grenada, Guinea-Bissau, Guyana, Haiti, Ireland, Kiribati, Liberia, Libya, Republic of Maldives, Marshall Islands, Papua New Guinea, Saint Lucia, Sao Tome and Principe, Sierra Leone, Solomon Islands, Somalia, South Sudan, Timor-Leste, Tonga, Tuvalu, United Arab Emirates, Vanuatu and Yemen.**

1.4. Communication of copies of reports to employers' and workers' organizations

164. The Committee noted that no information had yet been received from the **Plurinational State of Bolivia** or **Rwanda** concerning the names of the representative organizations of employers and workers to which, in accordance with article 23(2) of the Constitution, copies of reports and information supplied to the ILO under articles 19 and 22 have been communicated for the last three years. The Committee pointed out that the fulfilment by governments of their obligation to communicate reports and information to the organizations of employers and workers was a vital prerequisite for ensuring the participation of those organizations in the ILO supervisory system.

2. Application of ratified Conventions

165. The Committee noted with interest the information provided by the Committee of Experts in paragraph 54 of its report, which listed new cases in which that Committee had expressed its satisfaction at the measures taken by governments following comments it had made as to the degree of conformity of national legislation or practice with the provisions of a ratified Convention. In addition, the Committee of Experts had listed in paragraph 57 of its report cases in which measures ensuring better application of ratified Conventions had been noted with interest. These results were tangible proof of the effectiveness of the supervisory system.

166. At its present session, the Committee examined 23 individual cases relating to the application of various Conventions.⁶

2.1. Specific cases

167. The Committee recalled that its working methods provided for the possibility of drawing the attention of the Conference to its discussion of the cases, a full record of which appears as Part Two of this report. It had not made use of that possibility this year.

2.2. Continued failure to implement

168. The Committee recalled that its working methods provide for the listing of cases of continued failure over several years to eliminate serious deficiencies, previously discussed, in the application of ratified Conventions. This year the Committee made no mention in this respect.

⁶ A summary of the information submitted by governments, the discussion and conclusions of the examination of the individual cases are contained in section B of Part Two of this report.

3. Participation in the work of the Committee

169. The Committee wished to express its appreciation to the 45 governments which had collaborated by providing information on the situation in their countries and participating in the discussion of their cases.
170. The Committee regretted that the Governments of the following States failed to take part in the discussions concerning their country and the fulfilment of their reporting and other standards-related obligations: **Afghanistan, Armenia, Azerbaijan, Barbados, Botswana, Brunei Darussalam, Chad, Comoros, Congo, Croatia, Djibouti, Equatorial Guinea, Fiji, Gabon, Kuwait, Libya, Papua New Guinea, Seychelles, Somalia, Syrian Arab Republic and Trinidad and Tobago.**
171. The Chairperson announced that, as specified in part VII of document D.1, on the last day of the discussion of individual cases, the Committee dealt with the cases in which governments had not responded to the invitation. The refusal by a government to participate in the work of the Committee was a significant obstacle to the attainment of the core objectives of the International Labour Organization. In the case of governments that were not present at the Conference, the Committee would not discuss the substance of the case, but would draw attention in its report to the importance of the questions raised. In such a situation, a particular emphasis would be put on steps to be taken to resume dialogue. The representative of the Secretary-General informed the Committee that the delegation of Samoa was not accredited to the Conference this year. The Government had sent a communication to the Committee of Experts relating to its compliance with Convention No. 182 in which it also explained that the absence of its delegation at the 107th Session of the International Labour Conference was due to financial difficulties. The Government also communicated its commitment to provide a full report to the Committee of Experts by the end of August 2018.

172. The Worker members expressed regret at the absence of the Government delegation at the current session of the Conference, which prevented the Committee's examination of the case. Governments' participation at the Conference was essential to the effective functioning of the supervisory system. The Worker members highlighted key aspects of the Committee of Experts' comments that required follow-up action by the Government to redress the situation of child labour in the country. An ILO pilot study had revealed that around 38 per cent of child labour in Samoa was performed by under 15-year-olds, which compromised children's development and called into question the Government's capacity and commitment to address the worst forms of child labour. Child protection laws were inadequate and the absence of any protection for young persons between 16 and 18 years put them at particular risk of exploitation. Institutions for the protection of children did not function properly and legislative reforms had stalled. The legislative process had not advanced, for example, for bills drafted in accordance with the Optional Protocols to the United Nations Convention on the Rights of the Child, which the Government had ratified in 2016. More needed to be done to address the concerns regarding the worst forms of child labour. The Worker members urged the Government to provide a detailed report on the application of the Convention to the Committee of Experts at its next session. The Government should avail itself of ILO technical assistance to comply with its reporting obligations and tackle the worst forms of child labour.

173. The Employer Members echoed the Worker members' statement and expressed regret that the Government had not attended the Conference. Non-compliance with the Convention was a serious concern and the Committee of Experts had identified three main aspects in that regard: the disparity between the ratifications of the Optional Protocols to the United Nations Convention on the Rights of the Child and the real protection of children in the country; the absence of a list of hazardous work for young persons; and the prevalence of under 15-year-olds exploited as street vendors and subjected to other abusive practices. The Government's failure to submit replies to those issues to the Committee, irrespective of its absence, was a

matter of deep concern. The Employer members urged the Government to provide replies and commit to participating fully at the next session of the International Labour Conference.

174. The Committee noted with regret that the Governments of the following States, which were not represented at the Conference, were unable to participate in the discussions concerning their country and the fulfilment of their reporting and other standards-related obligations: **Belize, Cook Islands, Dominica, Gambia, Grenada, Guinea-Bissau, Guyana, Kyrgyzstan, Republic of Maldives, Marshall Islands, Rwanda, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Samoa, Sao Tome and Principe, Sierra Leone, Solomon Islands, Timor-Leste, Tonga, Tuvalu and Vanuatu.**

E. Adoption of the report and closing remarks

175. The Committee's report was adopted, as amended.

Geneva, 7 June 2018

(Signed) Mr Rorix Núñez Morales
Chairperson

Mr Patrick Rochford
Reporter