

**Third Item on the Agenda: Information and Reports on the Application of Conventions
and Recommendations****Report of the Committee on the Application of Standards****CONTENTS**

	Page
PART ONE: <i>General Report</i>	2
A. Introduction.....	2
B. General questions relating to international labour standards.....	5
C. Reports requested under article 19 of the Constitution.....	30
D. Compliance with specific obligations	42
PART TWO: <i>Observations and Information concerning Particular Countries</i>	49
I. <i>Observations and Information concerning Reports on Ratified Conventions (Article 22 of the Constitution)</i>	49
A. General Observations and Information concerning Certain Countries	49
B. Observations and Information on the Application of Conventions	54
C. Table of Reports on Ratified Conventions (State Members).....	121
D. Statistical Table of Reports Ratified Conventions	124
II. <i>Observations and Information concerning the Application of Conventions in Non-Metropolitan Territories (Articles 22 and 35 of the Constitution)</i>	125
A. Information concerning Certain Territories	125
B. Table of Reports on Ratified Conventions (Non-Metropolitan Territories).....	126
III. <i>Submission to the Competent Authorities of the Conventions and Recommendations Adopted by the International Labour Conference (Article 19 of the Constitution)</i>	127
IV. <i>Reports on unratified Conventions and on Recommendations (Article 19 of the Constitution) - General Survey concerning the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) and the Tripartite Consultation (Activities of the International Labour Organisation) Recommendation, 1976 (No. 152)</i>	129
Reports received on unratified Convention No.144 and on Recommendation No. 152.....	130
<i>Index by Countries to Observations and Information Contained in the Report</i>	131

Report of the Committee on the Application of Standards

PART ONE

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 227 members (116 Government members, 17 Employer members and 94 Worker members). It also included 13 Government deputy members, 54 Employer deputy members and 97 Worker deputy members.¹ In addition, 33 international non-governmental organizations were represented by observers.
2. The Committee elected its Officers as follows:
Chairperson: Mr. P. van der Heijden (Government member, Netherlands);
Vice-Chairpersons: Mr. A. Wisskirchen (Employer member, Germany); and Mr. L. Cortebeek (Worker member, Belgium);
Reporter: Ms. J. Misner (Government member, United States).
3. The Committee held 17 sittings.
4. In accordance with its terms of reference, the Committee considered the following: (i) information supplied under article 19 of the Constitution on the submission to the competent authorities of Conventions and Recommendations adopted by the Conference; (ii) reports supplied under articles 22 and 35 of the Constitution on the application of ratified Conventions; and (iii) reports requested by the Governing Body under article 19 of the Constitution on the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), and the Tripartite Consultation (Activities of the International Labour Organisation) Recommendation, 1976 (No. 152).²
5. As usual, the Committee began its work with a discussion of general aspects of the application of Conventions (particularly ratified Conventions) and Recommendations and the discharge by member States of standards-related obligations under the ILO Constitution. It then discussed the General Survey carried out by the Committee of Experts on the Application of Conventions and Recommendations, dealing with tripartite consultations. As usual, the Committee finally considered various individual cases relating

¹ For changes in the composition of the Committee, refer to the reports of the Selection Committee, *Provisional Record* Nos. 6-1 to 6-1K.

² International Labour Conference, Report III – Part IA: Report of the Committee of Experts on the Application of Conventions and Recommendations; Part IB: Tripartite Consultations.

to the application of ratified Conventions or compliance with the obligations to supply reports and to submit Conventions and Recommendations to the competent national authorities.

6. The examination of those cases, which is the essential work of the Committee, was based principally on the observations contained in the report of the Committee of Experts and the oral and written explanations provided by the governments concerned. The Committee also referred to its discussions in previous years, comments received from employers' or workers' organizations and, where appropriate, the reports of other supervisory bodies of the ILO and other international organizations. In view of the short time available, the Committee made a selection among the Committee of Experts' observations and thus discussed a limited number of cases. The Committee trusts that those governments will pay close attention to the requests of the Committee of Experts and will not fail to take the measures required to ensure fulfilment of the obligations they have undertaken. A summary of the information supplied by governments, the discussions in the present Committee and any conclusions it has drawn are set out in Part Two of this report.
7. The Worker members approved the draft list of individual cases, following a lengthy discussion within the Workers' group. The choosing of priority cases for discussion was always a difficult exercise given the time constraints and the great number of difficulties in applying standards in all the regions of the world. While noting that certain Government members wanted greater transparency in the preparation of this list, they nevertheless considered that while transparency was necessary, an impartial choice of cases was equally important. In this regard, the Worker members recalled the criteria applied to choosing individual cases, namely the content and substance of cases; the nature of observations by the Committee of Experts; the footnotes in the report of the Committee of Experts requesting governments to provide information to the Conference; the extent to which governments responded to these requests as well as the quality of responses reproduced in the report or the absence of responses; the discussions and conclusions of the Conference Committee's previous sessions; the observations made by the employers' and workers' organizations; the reports of the other supervisory bodies of the ILO and of other international organizations; recent developments in the field; and the statements made by the Worker members at the time of adopting the list of individual cases the previous year. The search for an equilibrium among the regions and the different Conventions was a further criterion for consideration. While it was important to discuss the application of fundamental Conventions, it was equally important to examine the problems encountered and new developments in applying the so-called technical Conventions.
8. The Worker members directed a number of important comments to the Committee of Experts, the Office, the governments concerned and the Conference Committee. They expressed a very clear wish to discuss certain cases next year, unless positive developments in these cases had been observed in the interim, and indicated that the Committee of Experts' report for 2001 should include the following eight cases for re-examination: *Indonesia*, in regard to the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), and the difficulties encountered in applying Convention No. 98 in light of the disquiet engendered by acts of anti-union discrimination, military intervention in social conflicts and the enactment of anti-terrorist legislation. It was noted with interest, however, that legislation was being drafted to give effect to Conventions Nos. 87 and 98 and it was hoped that, once enacted, it would give full effect to these Conventions. *Chile*, in regard to the Old-Age Insurance (Industry, etc.) Convention, 1933 (No. 35), and the importance of the technical Conventions and of old-age insurance, which was the essence of this Convention. Violations of employer obligations, malfunctioning of the inspection services and the system supervising payment of social security contributions and benefits and the growing trend to privatize old-age pension funds were also areas of

particular concern. The Governing Body had examined a representation concerning the privatization of an old-age pension fund and mandated the Committee of Experts to monitor developments. Old-age insurance provided an essential safety net to ensure a decent life for those who were no longer working or able to work. *Pakistan*, in regard to the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) and the unacceptable situation of workers who still did not enjoy freedom of association either because of their place of work or their functions, which violated Convention No. 87. The non-respect of the right of freedom of association for workers in export processing zones had already been the subject of long debates in the Conference Committee, which had always insisted, as had the Committee of Experts in their comments on Pakistan, “that the provisions of this Convention should apply to all workers, without distinction whatsoever, including workers in export processing zones”. The changes announced by the Government of Pakistan with regard to the situations examined by the Committee of Experts were awaited with great interest. *Peru*, in respect of the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), and the problems arising out of anti-union discrimination and the non-observance of the right to collective bargaining. The criteria used by the Government to decide whether a union was competent to conclude collective agreements were excessively strict and in contravention of the Convention, as were the legal provisions allowing an employer to modify unilaterally the terms of a collective agreement. The Committee of Experts had requested the Government to forward a detailed report this year, which would be examined with great attention, since there should be a rapid improvement in the situation. *Costa Rica*, in regard to the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), anti-union discrimination and the refusal to grant public servants the right to collective bargaining. In fact, it was almost impossible for workers employed in the private sector, particularly in the banana plantations or export processing zones, to establish or join a trade union. The Constitutional Court had recently declared that collective agreements concluded in the public sector at national and municipal levels violated the Constitution. *Japan*, in respect of the Equal Remuneration Convention, 1951 (No. 100). Following the recent enactment of legislation on equality, it was necessary to monitor the developments with regard to equal remuneration and the comments of the Committee of Experts in this regard. *Kenya*, in regard to the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), and the right of public employees to collective bargaining, the Government’s refusal to register the Kenya Civil Servants Union in 1980, as well as its refusal to register the Kenya Medical Practitioners and Dentists Union, the University Academic Staff, and the All Cadre Nurses Union of Kenya. *Myanmar (Burma)*, in regard to the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87). The case of Myanmar had not been included in the list of individual cases in the hope that the procedures under way as well as the discussion on forced labour in Myanmar in the Selection Committee of this Conference, would produce significant results. The various problems encountered in Myanmar in applying the Conventions were interconnected and it was hoped that the Government would adopt the necessary measures to ensure compliance with international labour standards. Freedom of association, without which workers could not expect to see an improvement in their situation or the abolition of forced labour, was neither guaranteed nor possible. Workers were barred from establishing or joining trade unions to defend their interests. It was therefore high time that the Government met its obligations and respected the promises it had made repeatedly.

9. The Worker members insisted on the importance of cooperation by the representatives of governments mentioned in the list. The choice of individual cases to be examined was a very difficult one and it would be regrettable if certain cases were not discussed because the government in question had refused to enter into dialogue with the Committee.

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10. The Employer members acknowledged that the list of individual cases to be examined was not a perfect one, that the situation in a number of countries on the list was not urgent and that a number of other countries, with whom the Committee had wished to enter into dialogue, were excluded from this list. Since no predetermined legal criteria existed as to which countries should be included in the list, the Employer members accepted the list as it stood.
 11. The Government member of the United States, supported by the Government members of Canada, Denmark (on behalf of the Nordic countries), Germany, Japan and Portugal considered that Government representatives should play a more active role in the selection of individual cases for discussion. The representative of the Secretary-General requested the Committee members to communicate, in the coming weeks and months, their ideas and suggestions to enable an appropriate solution to be found which would satisfy all parties concerned.

B. General questions relating to international labour standards

Introduction: General aspects of the supervisory procedures

12. The Committee welcomed Sir William Douglas, Chairperson of the Committee of Experts. Sir William thanked the Committee, on behalf of the Committee of Experts, for renewing the invitation for him to attend as an observer. On behalf of the Committee of Experts, he emphasized the pivotal role of the Conference Committee in the functioning of the ILO's supervisory mechanisms in respect of the application of international labour standards. He also recalled that, in carrying out its mandate, the Committee of Experts was guided by the principles of independence, objectivity and impartiality in evaluating the reports and information that it received. However, he observed that its workload under articles 19, 22 and 35 of the Constitution had increased in quantity and complexity as a result of both the greater number of ratifications and the points raised in observations by employers' and workers' organizations. The Committee viewed its role in supervising the application of Conventions and Recommendations as its contribution to the ILO's mission of ensuring the continued relevance of international labour standards. In this spirit, the Committee of Experts, at its own initiative, had reviewed the form and style of its report with the object of maximizing its usefulness for the Conference, the national constituents and the many other bodies and institutions in which it was used. In its present report, the Committee had sought to make its observations more concise, had introduced bold type to highlight references in the text, and made greater use of tables and footnotes. The Committee of Experts hoped that these changes would increase the impact of the report by making it easier to read and understand.
13. The Committee of Experts' report welcomed the adoption by the International Labour Conference at its 87th Session, in June 1999, of the Worst Forms of Child Labour Convention (No. 182) and Recommendation (No. 190), 1999. The Committee of Experts noted that the new Convention complemented rather than replaced the Conventions governing the minimum age for employment. In this regard, it proposed seeking information on measures such as education policies and adult employment programmes which would contribute to eliminating child labour. It also expressed its intention to request statistical information on child labour from member States.
14. The Committee of Experts had once again referred in its report to the problems encountered in applying the Employment Policy Convention, 1964 (No. 122). During the

discussion on the Convention in the Conference Committee in 1999, the view had been expressed that improvements in the employment situation would only be achieved through the coordination of measures in such areas as economic policy, monetary policy and social policy. In order to evaluate the steps which were being taken at the national level to attain the objectives of the Convention in promoting full, productive and freely chosen employment, the Committee of Experts hoped to receive information regarding the impact of monetary policy, government spending and trade policies. With a view to minimizing the risks to individuals arising out of the opening up of markets, the Committee of Experts concurred with the view expressed in the Conference Committee that adequate safety nets were required, since even the best designed employment policies were not able to guarantee full employment at all times.

15. The Committee of Experts also welcomed the steadily increasing number of observations made by employers' and workers' organizations. Such observations should contain sufficient information to allow the Committee of Experts to assess fully the extent of the problem, and to allow the governments concerned to make inquiries and to provide information on their findings. However, it should be recalled that the number of reports received as a percentage of requested reports was far too low and it was a matter of regret that there were still far too many cases of governments failing to reply to the observations and direct requests made by the Committee of Experts.
16. Sir William noted that, in a general observation on the application of the Labour Inspection Convention, 1947 (No. 81), the Committee of Experts had outlined the benefits to be derived by inspection services from cooperation with other bodies and institutions and with employers' and workers' organizations. The Committee had urged governments to make the supervision of legal provisions on child labour a priority for the inspection services. Similarly, in a general observation on the application of the Labour Inspection (Agriculture) Convention, 1969 (No. 129), where problems might well be more serious than in the industrial or commercial sectors in view of the lack of legislation governing the agricultural sector and the increase in the use of machines and chemical products, the Committee of Experts had urged governments to direct the activities of the inspection services in such a way as to ensure the protection of children and adolescents working in agriculture and to help establish an educational framework for them.
17. Sir William recalled that the General Survey of the Committee of Experts covered the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), and the Tripartite Consultation (Activities of the International Labour Organisation) Recommendation, 1976 (No. 152). The survey provided an historical background to the fundamental principle of tripartism and defined the concepts involved and methods for their implementation. It described procedures for consultation and examined difficulties experienced by a number of governments in ratifying this Convention, and had concluded that the obstacles referred to were not substantial. The Committee of Experts hoped that the General Survey would promote the ratification and application of the Convention and the Recommendation by improving understanding of their scope and importance.
18. Sir William considered the convergence of views between the Conference Committee and the Committee of Experts encouraging. A great number of questions raised by the Conference Committee merited careful examination by the Committee of Experts. The comments made with regard to the General Survey would allow a better understanding of the situation in respect of the application of [Convention No. 144](#) at national level. Sir William indicated that he would report to the Committee of Experts on the discussions.
19. Sir William expressed his gratitude to the Conference Committee for inviting him to attend its general discussions as an observer. He also invited the two Vice-Chairpersons of the

Conference Committee to meet with the Committee of Experts for an informal exchange of views during its next session. The Committee repeated the invitation for the Chairperson of the Committee of Experts to attend the general discussion of the Conference Committee next year.

- 20.** The Government member of France, speaking as the Chairperson of the Working Party on Policy regarding the Revision of Standards of the Governing Body Committee on Legal Issues and International Labour Standards (LILS), informed the Committee members, as in previous years, of the progress of the Working Party, as reflected in the document put before the Committee. The Working Party's mandate had been to review the whole body of standards developed prior to 1985, with the exception of the fundamental standards and the priority standards. The speaker provided detailed information on the decisions taken by the Governing Body. He reflected that in the follow-up to be given to the Committee's decisions, up-to-date Conventions should be promoted and regrouped by category within the framework of the four strategic objectives of the Organization. If possible and appropriate, they should be consolidated. The existence of any overlapping, inconsistencies or gaps should also be examined. The latter could constitute the subject of new standards. It was also important to carefully prepare the ground for the revisions decided by the Governing Body, taking into account especially the Office document on methods of revision.
- 21.** The Worker members expressed their gratitude to the Chairperson of the Committee of Experts for once again accepting the invitation to take part in the general discussion of the Committee and welcomed the strengthening of dialogue between the two Committees. The Committee of Experts' report reflected many of the points under discussion in the Conference Committee. Last November, for the second time, the Committee of Experts had extended an invitation to the Employer and Worker Vice-Chairpersons of the Committee to be present at its session. The Committee of Experts had therefore been able to acquaint itself with the priorities and concerns of the Worker members. The second part of the Committee of Experts' report also reflected important elements of the Committee's discussion and conclusions regarding individual cases. These references were particularly useful in following up commitments made by governments on certain specific points during the Conference Committee. The report also dealt with observations regarding individual cases which, during the previous session, the Worker members had considered merited examination again this year. Moreover, he again emphasized the importance of the complementary nature of the two Committees.
- 22.** The Worker members noted that the principles and working methods of the Committee of Experts were clearly set out in paragraphs 5 et seq. of its report. The Committee had referred to the need to carry out "a review of its own working methods and of the way its report is presented". While appreciating the very real efforts undertaken to increase the transparency and legibility of the Committee of Experts' report, due regard should nevertheless be given to its objective, namely to present a legal and technical analysis which meant that it could not be oversimplified. The report should therefore remain true to its objectives so that it would continue to serve as a basis for discussions in the Conference Committee.
- 23.** The Employer members welcomed Mr. Cortebeek, who had succeeded Mr. Peirens as spokesperson for the Worker members. They also noted the new presentation of the report of the Committee of Experts, particularly the more detailed index, an increase in the number of tables, and the typographical improvements, all of which had improved its legibility. The Employer members also noted with interest that this year's report was considerably shorter than previous years, particularly that of 1999.

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24. The Employer members considered that even though some of the statements which would be made to the Conference Committee could be qualified as political in nature, it was nevertheless important to emphasize that the Conference Committee did not have a political function. Indeed, its core functions were set out very clearly in article 7 of the Standing Orders of the Conference, according to which the Committee examined the extent to which member States fulfilled their obligations under the Constitution and, in particular, those deriving from the ratification of Conventions. This task corresponded to that of the Committee of Experts, which had been set up by the Governing Body for that specific purpose, and consisted of conducting a purely legal assessment of the situation regarding the application of standards. Both bodies dealt with the same legal questions and, as emphasized in the report of the Committee of Experts each year, needed to do so respecting the principles of independence, objectivity and impartiality. Were their tasks not carried out in this way, it would be impossible to determine whether a member State had fulfilled its internationally agreed obligations. Even though statements might contain political overtones, particularly in the examination of individual cases, this should not detract from the legal core of the work of the Conference Committee. Good cooperation was required between the Conference Committee, part of the International Labour Conference – the highest authority, and the Committee of Experts. The Employer members not only again welcomed the presence of Sir William Douglas in the Conference Committee's general discussions but also the invitation extended to the two Vice-Chairpersons of the Conference Committee to hold informal discussions with the Committee of Experts. It was normal in legal matters that the two bodies might not be in complete agreement on every issue and, moreover, that the application of legal criteria in national legal systems worldwide could not be worked out as simply as seeking a solution to a mathematical problem.
25. The Employer members noted the statement by the Committee of Experts concerning its intention to present its reports in future in a more accessible style and a form which would be easier to read and comprehend. They emphasized that the comprehensible presentation of the report was not merely a question of language but of the legal working methods or tools which were used to carry out the necessary analysis and the results achieved by the process. This in turn raised the question of applying Conventions in vastly differing circumstances. Emphasis therefore needed to be placed on the essential objectives of each particular standard and, in the case of minimum social and labour standards, it was necessary to determine their basic protective objective, including their underlying principles, which would also enable the scope of each standard's application to be limited. When developing such standards, the ILO should seek inspiration from national legislators, who developed abstract laws on the basis of concrete situations. The same standard had to cover very different ways of life and realities. However, the Employer members warned against extending the scope of certain provisions by the interpretation and jurisprudence which evolved year by year to take account of particular circumstances, which had not been intended by the original drafters of the standard. This approach would result in standards becoming ever more far-reaching. These were issues of prime importance, not merely questions of language or legal presentation, and concerned the working methods and legal tools to be applied. The Conference Committee had to apply international law and, in addition to the unwritten rules of international customary law, pay particular attention to the provisions of the Vienna Convention on the Law of Treaties. The Committee of Experts had rightly referred to the application of the standards and principles some years ago. Only when all the supervisory bodies fully respected these principles could the danger of over-interpretation be avoided. Over-interpretation ran the very real risk of considerably reducing the readiness of member States to ratify ILO Conventions.
26. The Employer members remarked that, although the report of the Committee of Experts did not include a specific section on social dialogue, the spirit of social dialogue was, of

course, an important part of its work and that of the Conference Committee. Even if agreement were not reached on all matters, social dialogue was the business of everyone in the Committee out of a sense of social responsibility for all concerned.

27. Several Government members (Belgium, Cuba, Germany, Guatemala, Lebanon, the Philippines, Portugal and the United Kingdom) commended the Committee of Experts on its work and, in particular, on the quality of its report. A number of Government representatives commented on the improved presentation of the report as well as the Committee of Experts' intention to review its working methods. The Government member of Cuba invited the Committee of Experts to continue to embrace the principles of independence, objectivity and impartiality which, in the opinion of the Government member of Portugal, it had again demonstrated in its report. The Government member of the Philippines noted the complementary roles played by the Committee of Experts and the Conference Committee, and stressed that the presence of the Chairperson of the Committee of Experts was a guarantee of the spirit of mutual respect, cooperation and responsibility which should prevail between the two bodies. The Government member of Germany noted a number of innovations in the report of the Committee of Experts with regard to both form and substance. The report only contained four cases with a footnote requesting the concerned governments to provide information to the International Labour Conference and that this was a considerable reduction of such cases from previous years. He further noted that, unlike previous years, the report did not deal with issues not directly linked to the examination of individual cases, such as the issue of whether or not the non-observance of standards would lead to sanctions. The Government member of India suggested that internal interpretations of the text of Conventions should be avoided.
28. Certain Worker members (Germany, the Netherlands and the United Kingdom) referred to the statements made by the Employer members in respect of the tasks of the Committee of Experts and the Conference Committee as well as the so-called "over-interpretation" of Conventions. The Worker member of Germany highlighted the different working methods of the two Committees and called for greater cooperation between the Conference Committee and the Committee of Experts. He expressed his disagreement with Employer members who considered that the work of the Committees was of a purely legal nature and recalled that the Conference Committee was composed of representatives of the parties concerned and was not heretofore independent; nor did it engage in independent legal analysis. He considered that the essence of the Conference Committee's work was its moral value. In this context, he also disagreed with the Employer members who sought to limit the work of the supervisory bodies in accordance with the provisions of the Vienna Convention on the Law of Treaties, Article 5 of which provided for its application without prejudice to any relevant rules of the organization, which could only be interpreted in the sense that the rules respecting supervisory systems should prevail. The correctness of this interpretation was also proven by the fact that the ILO supervisory machinery was a complete system in itself. As long ago as 1973, at the request of the ILO, a coordinating committee on international standards had stated that legal provisions should be adopted and supervised by the bodies with the best qualifications in that field. Moreover, with regard to the uniform interpretation of these standards, that committee had concluded that the supervision of international standards should be carried out by the organization which was the most competent in the field concerned. In the field of international labour standards, the ILO was undoubtedly the most competent organization.
29. The Worker member of the Netherlands recalled the expertise of the Committee of Experts in legal matters and pointed out that if a member State felt that it had been a victim of such "over-interpretation", it could always refer the matter to the International Court of Justice. He dismissed as illogical the Employer members' argument that standards had become over-complex, rapidly outdated, difficult to ratify and subject to over-interpretation. In this

regard, the Employer members referred to [Conventions Nos. 87](#) and [98](#), which the Employer members considered to be over-interpreted. However, it was these very Conventions that had had the highest numbers of ratifications. The Worker member pointed out that, on the contrary, the more general a Convention, the more easily it could be applied. Yet those who pleaded for general standards, did not want to see extensive interpretation. The Worker member of the United Kingdom stated that the Employer members were opposed both to relevant new standards and to the development of jurisprudence based on a Convention to cover new and relevant phenomena, even though such jurisprudence had arisen precisely because the richness of tripartite discussion at the Conference had ensured that the principles of the Conventions were enduring, and therefore applicable to new phenomena. An excellent example consisted of the enduring relevance of the Forced Labour Convention, 1930 ([No. 29](#)), and its ability to address the recent accelerated growth in the exploitation of prisoners by private companies. Several Worker members, including those of Guatemala, Honduras and Senegal, emphasized the quality of the report and the role played by the Committee of Experts.

30. The Worker members reiterated their appreciation of the effect that the independent, neutral and impartial work carried out by the Committee of Experts had on the effectiveness of the Committee on the Application of Standards' work and the functioning of the supervisory system. The Committee of Experts' report formed the basis for the work undertaken by the Committee on the Application of Standards and certainly merited greater attention. Worker members were not calling for the in-depth and serious analysis undertaken by the Committee of Experts to be abandoned in favour of more widespread publicity but, on the contrary, that the Committee on the Application of Standards' conclusions and the information contained in its report receive the same publicity as that of the other activities undertaken by the ILO.
31. The Employer members, in referring to the Conference Committee's mandate, stated that they did not wish to embark on what could prove to be a sterile debate. The functions of the Conference Committee were clearly defined in article 7 of the Standing Orders, mandating the Conference Committee to examine the extent to which member States fulfilled their obligations under the Constitution and particularly those arising out of the ratification of Conventions. With regard to the interpretation of Conventions, the Employer members recalled that this question was covered by the Vienna Convention on the Law of Treaties. The application of the Vienna Convention with regard to ILO Conventions had been set out in the General Survey on labour standards on merchant shipping (1990), paragraphs 54 and 244, and Governing Body document GB.256/SC/2/2, paragraph 44. The Employer members wished to clarify this point in response to the statement of the Worker member of Germany that the Vienna Treaty was not applicable to ILO Conventions.

Policy regarding ILO standards

32. The Worker members stressed the importance of the standards policy, highlighting the discussions which had taken place within the Governing Body on the report of the Working Party on Policy regarding the Revision of Standards of the Committee on Legal Issues and International Labour Standards. They noted the positive developments in the revision of standards and also that the Working Party had interacted well with the Conference. The process of the revision and the modernization of the standards system generally was extremely important since it concerned the future of the ILO, which should emerge strengthened and with greater credibility.
33. The Worker members referred to the relevant paragraph of the Committee of Experts' report regarding developments on the number of ratifications. They recalled the importance they attached to ratifications, which were the basis of the ILO system and its

supervisory mechanisms, and noted the number of ratifications which had been registered between 1 January 1999 and 10 December 1999 (some 115 ratifications in 47 countries, bringing the total to 6,683). They further noted that the report indicated that since the launch of the campaign for the ratification of the ILO's fundamental Conventions, 150 new ratifications or confirmations of previous ratifications had been registered. While expressing their satisfaction at this large number of ratifications, which had increased even further since the session of the Committee of Experts, the Worker members recalled that ratification in itself was not enough, and that governments were also required to report regularly on the manner in which ratified Conventions were applied.

- 34.** The Worker members recalled that the 1998 Declaration on Fundamental Principles and Rights at Work had been a considerable advance, and stressed that the follow-up to the Declaration would take shape for the first time during this year's Conference when the Global Report on freedom of association and the right to collective bargaining would be discussed. This was primarily a comprehensive political discussion, which was expected to result in decisions being taken on how the ILO could provide more effective assistance for the application of the fundamental standards. This year's report of the Committee of Experts contained relatively few comments on this subject. The contents of the Declaration should be followed up very carefully. The Worker members recalled that, on the one hand, the main objective of the Declaration was to promote the principles of the fundamental Conventions and their ratification and, on the other, that it was for the Committee of Experts and the Conference Committee on the Application of Standards, as the supervisory bodies, to examine the application of ratified Conventions. While emphasizing the importance of the follow-up to the Declaration, the Worker members emphasized the role which each body had to play to ensure that the Declaration and its follow-up would be complementary to and not supplant the supervisory system for the application of standards.
- 35.** The Employer members stated that the short paragraph given to the standards policy by the Committee of Experts in their report served only to highlight a fundamental problem, which had been the subject of much discussion within the Organization. The viability, credibility and future of the Organization depended on the development of appropriate solutions to this problem. Until recently, the discussion of policy on standards had been largely dedicated to the question of reviewing existing standards. This was admittedly an important aspect of the problem, since many international labour standards were no longer relevant to the modern world and required revision. Although an amendment to the Constitution had been adopted allowing obsolete Conventions which had been shelved to be abrogated, it had not yet entered into force and, even when it did, might prove difficult to apply. It was indispensable that the standards policy focused on the development of more realistic standards. Reasons abounded for adopting a new approach to developing standards compared to that of recent decades, the most convincing of which was the decline in the number of ratifications during the past 20 years. Consequently, no purpose would be served in taking account of the number of global ratifications of Conventions since, to a large extent, these ratifications reflected only the fragmentation of unitary States into smaller ones. In the main, these figures actually demonstrated a considerable drop in the number of ratifications of international labour Conventions.
- 36.** The Employer members, referring to the working paper on the revision of international labour standards which summarized the work carried out and the decisions taken, pointed out that at least 76 of the 182 Conventions examined were no longer up to date, were completely out of date or needed revision, which was largely agreed by the ILO's bodies. Approximately 50 per cent of all Conventions were no longer of relevance to today's world of work. Discussions on the relevance of Conventions had begun in 1994 and it was now necessary to learn the appropriate lessons for the future. It was no longer desirable to continue mass-producing ILO standards. This did not mean that Employer members were

opposed to the development and adoption of new minimum standards in the future. The objective should be to elaborate better and more useful standards which respond to the needs of the economy and of the world of work. Standards should be adapted to real needs and seek to provide solutions to current problems. Above all, they should be based on a broad consensus. Consequently, the present situation required analysing, without any ideological or political prejudice, in order to identify current trends.

- 37.** The Employer members expressed their conviction that globalization and internationalization were important amongst these trends and that they would certainly be mentioned by many speakers, often in an essentially critical manner. Globalization and internationalization brought both risks and opportunities. Without wishing to enter into an in-depth discussion on the value of globalization, the Employer members felt that rejecting globalization would serve little purpose. Globalization was now a fact of life and efforts should focus on influencing and optimizing its development. From the point of view of the ILO, it was of great importance to draw the appropriate conclusions to guide its policy on standards. In this respect, the emergence of several principal trends simultaneously should be taken into consideration since they could be a reaction to globalization. For example, the phenomena of the increase in individualization and the rejection of very high levels of collectivization went hand in hand with globalization. The ILO should take account of these trends prior to undertaking the adoption of new international standards, and ask itself whether new international standards were necessary. Moreover, new labour standards should include fundamental principles and not details which would be subject to rapid changes. Consideration also had to be given to the current needs of enterprises and workers, as well as to the impact of future standards on employment. New standards should be based on a broad consensus and their objectives should be clearly defined. The various methods and means available to achieve the desired objectives should also be explored rather than only through the setting of standards (campaigns to raise public awareness, declarations, codes of conduct and technical assistance). One option might be the development of trial standards, in force for a limited period only, at the end of which it would be possible to analyse their effectiveness and whether their objectives had been achieved.
- 38.** The Employer members stressed that, prior to elaborating new standards, it was important to give consideration to the legal consequences and the long-term impact of international standards. Due consideration should also be given to the practical effects and economic impact of new international labour standards. The ILO should therefore adopt a new approach compared to that of previous years when rigid detailed and complex international instruments had been elaborated. Greater flexibility was required through the elaboration of general principles, for example, in the form of a Recommendation, which could be applied with greater specificity at national level. Unless there was a radical change of approach, the consequences would be extremely serious. The number of ratifications by member States would drop and the impact of international labour standards on working conditions would be greatly diminished. Member States and enterprises needed to adapt to changes more rapidly, and because of their worsening situation were increasingly reluctant to adopt rigid international standards. Should the ILO choose to ignore the need to change, it would not only lose contact with the real world but also its credibility and effectiveness.
- 39.** The Employer members considered that in so far as the figures provided by the Committee of Experts concerning the ratification of Conventions were concerned, the overall figures had little meaning. They recalled that the 1999 General Survey had covered two instruments which dealt with migrant workers, whose situation today was radically different from that which had prevailed at the time the instruments were drawn up. These relatively recent instruments had therefore been overtaken by events. Member States would, therefore, be showing a sense of realism and honesty in denouncing Conventions

which were no longer appropriate to the real world. While, in practice, there was little danger of workers in industrialized countries being exploited, there was a real danger that applying such standards would impair competitiveness which in turn would impact on workers. Outdated standards therefore needed to be revised as a matter of urgency. Moreover, denunciation rates did not reflect the true situation. In many cases, because it was normally only possible to denounce Conventions every ten years, member States dealt with Conventions which they considered to be out of date through a process which might be termed “private denunciation”, whereby they simply ceased to apply the instrument. Such situations could be recognized from many of the comments made in the report of the Committee of Experts concerning individual cases.

40. Several Government members (Belgium, Canada, China, Denmark (on behalf of the Nordic countries), Egypt, Germany, India, the Islamic Republic of Iran, Japan, Kenya, the Philippines, Portugal, the Russian Federation and Sri Lanka) commented on standards-related activities in the broad sense, referring variously to the adoption, the revision and the supervision of standards. The Government member of Germany emphasized the role of the Working Party on Policy regarding the Revision of Standards. Recalling that standard setting was one of the most important activities of the ILO, he acknowledged that the choice of subjects, the working methods of technical committees and the timetable needed to be modernized. However, he disagreed with the proposal of the Employer members regarding “trial standards”, which would risk being developed with less exactitude than “classic” Conventions and Recommendations. Such “trial standards” would lead to inaccuracies in the legislation drawn up by governments to apply these standards. As regards the discussion on the possible abrogation of international standards which no longer responded to the needs of the modern world, the speaker recalled that ratifications by a number of member States of a certain Convention resulted in a contractual relationship among the parties, and it was therefore impossible for a third party to abrogate a Convention against the will of the contracting parties. He hoped that the 1997 constitutional amendment would not come into force. The Government members of Denmark (on behalf of the Nordic countries) and Egypt referred specifically to the work and decisions taken with regard to the revision of standards, and the Government member of Lebanon expressed the hope that the Working Party on Policy regarding the Revision of Standards would have a positive impact on the standards policy. The Government member of Kenya expressed support for an urgent and thorough review and the rationalization of existing standards. The Government member of Belgium, in referring to the standards policy and the supervisory procedures, recalled that the more a Convention responded to the realities on the ground, the more it would be respected. The Government member of the Islamic Republic of Iran emphasized the need for a detailed study on standards and the standards policy to be able to evaluate their effectiveness and to identify the problems encountered in ratifying and applying Conventions. He expressed support for the work of the Committee of Experts and the Conference Committee and trusted that progress could be achieved in a climate of cooperation, pragmatism and respect. The Government member of Canada expressed support for a review of ILO normative activities and underlined the need to follow up on the Working Party on the Revision of Standards.
41. The Government member of India, along with the Asia-Pacific group, expressed his Government’s support for a comprehensive review of ILO standards in a spirit of transparency and objectivity. This did not mean that there was an intention to undermine existing systems to the detriment of the social partners. Such a review should apply to all ILO standards, consolidate existing standards in accordance with the recommendations made by the Working Party on the Revision of Standards, and be sufficiently flexible to respond to the different situations relevant to the new realities. The review should also include the drawing up of fundamental standards to include basic principles and take the form of framework Conventions. Regional conferences could play an important role in

developing standards. Improvements to the standard-setting procedure should take the form of an amendment to the ILO Constitution and include a revision of the conditions of entry into force and denunciation of Conventions. The Government member of Sri Lanka, recalling his attachment to the universal application of ILO Conventions, had felt that without deviating from the basic principles contained in ILO standards, certain adjustments could be made to take account of economic structures and cultural differences in different regions, which would create conditions conducive to the effective application of Conventions. A degree of flexibility would encourage the ratifying country to give effect to standards, without undermining the basic principles set out in the Conventions. He proposed a preliminary examination at the regional level of the progress made in the application of standards by member States, based on observations made in the annual report of the Committee of Experts or issues raised by the Standards Department. This would provide a better overview at the regional level before governments were requested to report to the Conference Committee. This examination could be undertaken at national, regional or subregional levels. The Government member of China considered that greater consideration should be given to the diversity of cultural, economic and social conditions amongst member States and suggested that international labour standards should be more flexible to take account of these differences. Governments should play a more active role in both the standard-setting process and the supervisory system, which should be transparent, objective and impartial.

42. The Government member of Japan emphasized the importance of standards and the role played by the ILO, the only organization competent to set standards and supervise their application. Standards could only be accepted where there had been a consensus amongst the majority of member States at the time of their adoption. While the supervisory system promoted respect for standards, there was a need for greater transparency, objectivity and coherence in its procedures, and an urgent review of its standard-setting policy and supervisory mechanisms was required. The Government member of the Philippines emphasized that the ILO was regarded as the social conscience of the world and provided a forum for setting minimum social standards. She referred to the simplification of the supervisory functions and their reorientation, stating that priority should be given to the fundamental Conventions and to those ratified by at least two-thirds of member States. In cases where Conventions had been ratified by fewer than two-thirds of the Members, a ratifying country should be granted more time to bring its legislation into conformity with the Convention.

43. The Government member of Portugal considered that the ILO should continue studying measures to strengthen standards policy and supervisory procedures, which were essential to the attainment of goals leading to decent work. Since 1994, different measures had been examined to promote, strengthen and modernize standards activities. The revision of Conventions and Recommendations should seek to increase the relevance and effectiveness of standards and their universal application without lowering the established level of protection. The Conventions governing hours of work should also be discussed in the Conference to enable these Conventions to provide appropriate responses to current realities and adequate protection to workers employed in the informal sector. The supervisory system was flexible and well structured. The difficulties it encountered appeared to arise not so much out of a need for improvement, however desirable that might be, but rather out of the non-compliance of constitutional obligations in respect of standards, thereby reducing their effectiveness. Only by stepping up the Office's efforts to raise levels of awareness and cooperation could these obstacles be overcome. The Government member of Guatemala fully supported the supervisory procedures which ensured respect for the obligations arising from the ratification of Conventions. The Government member of the Russian Federation supported the opinion of the Members who had called for supervisory procedures to be strengthened and improved.

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44. Several Government members (Brazil, China, Denmark (on behalf of the Nordic countries), Egypt, India, Kenya, the Philippines, Portugal and Slovakia) referred to the increase in the number of ratifications following the campaign launched in 1995 to encourage member States to ratify the fundamental Conventions and, in particular, the ratifications by their respective governments. The Committee of Experts had reported that since 1995, over 150 new ratifications of the fundamental Conventions had been registered, and the campaign now covered [Convention No. 182](#) as well. Certain Government members had also referred to the priority Conventions or others ratified by their countries (Kenya and Lebanon) or to difficulties encountered on the progress made in areas covered by Conventions which they had not ratified (India).
45. The Government member of the Islamic Republic of Iran indicated that non-ratification should not automatically be considered a lack of political will, particularly in the case of developing countries, which were frequently confronted with procedural and economic obstacles to ratification. Moreover, the problems of industrialized countries were different from those of developing countries. Developing countries faced difficulties arising out of different cultural, economic and educational parameters and the globalization process, which had its own social impact and which had exacerbated these difficulties. Consequently, the ILO and its bodies should provide extensive technical and moral support to member States that had expressed their commitment to participate in ILO activities. The Government member of Nigeria appealed to the ILO and to all other relevant international agencies to grant special attention to Africa and the other highly indebted developing countries when examining the ratification and application of fundamental Conventions.
46. Several Government members (Belgium, Denmark (on behalf of the Nordic countries), Ethiopia, India and the Philippines) referred to the Declaration on Fundamental Principles and Rights at Work. The Government member of Belgium considered that the supervision of the application of Conventions and the promotional role of the Declaration should, each in their own way, be a source of enrichment. The Government member of India indicated that the most appropriate manner to promote and implement ILO standards was through the ratification of the relevant Conventions, and the Declaration should not be used as an excuse for not ratifying the fundamental Conventions.
47. Several Government members (Cuba, Ethiopia, Lebanon, the Philippines, Singapore, Slovakia) and the Worker member of Pakistan emphasized the importance of social dialogue not only at governmental level but also in the work of the Conference Committee.
48. A number of Worker members (Canada, France, Germany, Greece, Guatemala, Italy, Madagascar, Pakistan, Senegal and Singapore) referred to standards policy, in relation to the comments made by the Employer members concerning the complexity of standards and the difficulty of ratifying them. The Worker member of Senegal recalled that in the absence of its standards system, the ILO would lose its mission in the field of social protection and its humanitarian character in the world of work. The Worker member of France noted that, first and foremost, the ILO was a machine for producing standards, which were the backbone of the Organization and the guarantors of a democratic way of life. The Worker member of Guatemala emphasized that Conventions were fundamental tools which were effective, regardless of how many States ratified them. The Worker member of Madagascar considered that standards had enabled considerable progress to be achieved in improving workers' living conditions and in creating the necessary conditions for the harmonious development of enterprises.
49. The Worker member of Canada, who was spokesperson for the Worker members on the Governing Body Committee on Legal Issues and International Labour Standards (LILS) and also on the Working Party on Policy regarding the Revision of Standards, throughout

the duration of the revision exercise, emphasized that the conclusions of the Working Party had all been based on a tripartite consensus, and that the so-called “obsolete” Conventions continued to protect a large group of workers. These Conventions could not be regarded as obsolete, since a large number of member States bound by these Conventions had still not ratified the new Conventions. Moreover, cases existed where member States had notified ratification of “obsolete” Conventions, even after these Conventions had been revised and new Conventions adopted. As far as the Worker members were concerned, as long as a Convention continued to provide protection to a group of workers it could not be considered as “obsolete” since it still served a purpose. The position of the Workers’ group at the beginning of the exercise to revise ILO standards had been that the revision of Conventions, adopted prior to 1985, should be accompanied by the adoption of new standards and the promotion of up-to-date standards. Experience had shown that Conventions which member States had previously considered as unratifiable had subsequently been ratified by a number of member States following technical assistance to remove the obstacles which had hitherto hindered their ratification. An example was the Minimum Age Convention, 1973 (No. 138), which a number of member States had qualified as lacking flexibility in order to justify their refusal to ratify. In fact, this Convention was one of the most flexible amongst the eight core Conventions and had been ratified by a large number of member States following the ratification campaign launched by the Director-General in 1995. As to the statement that it was not desirable for the ILO to adopt Conventions in a “production line” at the risk of losing credibility and a grip on reality, he questioned the reality alluded to by the Employer members. The only reality which workers were familiar with was that described in page after page of the Committee of Experts’ report and that which confronted workers across the globe, in varying degrees. The singular problem of ILO credibility lay not in ILO standards but rather the Organization’s lack of power to enforce their application. The ILO would not enhance its credibility by adopting standards which did not go beyond existing national legislation in member States, since that would mean that the ILO adopted only standards which could not change existing conditions. The ILO would enhance its credibility when member States amended national legislation and accepted to be bound by their obligations to the millions of workers which they claimed to protect. The Worker member of Colombia expressed concern at the intended abrogation of Conventions and Recommendations which were considered as obsolete and referred, in particular, to the intended revision of the Maternity Protection Convention (Revised), 1952 (No. 103), which had been described as obsolete and as having attracted few ratifications.

50. The Worker member of Germany shared the negative view expressed by the Government member of Germany concerning the proposal by the Employer members to accept standards for a limited period of time (trial standards) in order to test their effectiveness in practice. He considered that the formulation of general principles to address the need for flexibility would either strengthen the development of case law or limit the supervisory machinery. Resolutions and declarations were non-binding and could therefore play only a complementary role. It was contradictory to advocate greater international protection for investments and intellectual property internationally rather than providing adequate protection for workers’ rights. The Worker member of Singapore shared this opinion and, noting the trend toward deregulation, expressed her disagreement with those who felt that the labour market should follow suit. Employment relationships were different from commercial transactions and if the freedom to draw up contracts were rigidly applied to employment relationships, injustice would be the result. The Worker member of Pakistan stated that standards that were too flexible would not guarantee the protection of workers’ rights.

51. Several Worker members (France, Italy, the Netherlands, Singapore and the United Kingdom) referred to the ratification of Conventions. The Worker member of France

supported the activities undertaken to encourage the ratification and the application of the fundamental Conventions, but emphasized that this should not be to the detriment of other standards. The Worker member of Italy noted that despite the steep rise in the number of ratifications of fundamental Conventions, many more essential Conventions should be ratified by more countries. The Worker member of the Netherlands attached great importance to the ratification of the fundamental Conventions by all member States, and the Global Report published within the framework of the follow-up to the Declaration could contribute to the ratification campaign. The Worker member of the United Kingdom stated that it was normal that there should be differences in the rate of ratifications. Sectoral Conventions could not enjoy universal ratification. Conventions tended to be ratified over a long period of time. Conventions such as [Convention No. 29](#) were still receiving ratifications. The most important factor in the decision to ratify a Convention remained political will, and [Convention No. 138](#) had experienced a sudden upsurge in ratifications as the ILO reawakened attention to child labour. The Worker member of Singapore expressed appreciation at the high number of ratifications registered following efforts to raise awareness.

- 52.** The Worker member of Italy drew attention to the economic advantages arising out of the ratification and application of standards and emphasized that liberalization and globalization required more democracy and participation, and that deteriorating labour standards would not even benefit employers. The moral values enshrined in the Conventions, which were fundamental instruments for the development of effective policies of economic and social growth, also had a sound economic basis. The new society attached increasing importance to innovation, requiring workers to be well trained and to develop the capacity to innovate. The proliferation of informal work, precarious working conditions and child labour would do little to promote a society based on knowledge.
- 53.** The observer representing the International Transport Workers' Federation referred to the Common Market of South America (MERCOSUR) Social-Labour Declaration adopted in December 1998. He also stressed the importance of labour inspection when applying international as well as national standards.
- 54.** The Worker members, in referring to the future of ILO standards policy, strongly disagreed with the argument that the complexity of the world prevented the adoption of new international standards and expressed their surprise at such a position at the very moment when international economic institutions were calling for new regulatory standards. Recent World Trade Organization meetings, especially the Ministerial Conference in Seattle, was the most striking demonstration of this, as had been the Multilateral Investments Accord. The Worker members had preferred to renew their confidence in the ILO by adopting the Declaration on Fundamental Principles and Rights at Work in June 1998. The need to adopt new standards was blatantly obvious not from a theoretical standpoint but from the realities which trade union leaders encountered daily in their contacts with workers worldwide. If any doubts persisted on this point, it was enough to enumerate several of these new challenges and developments: the increasing precariousness of labour markets; the growing trend towards subcontracting; the erosion of workers' rights through collective and individual labour agreements; the lack of government will, often in the face of mounting pressure from the Bretton Woods institutions, to adopt macroeconomic and voluntarist policies favouring employment; the prevalence of economic criteria over social criteria; the introduction of new technologies; the growing inequalities in many societies; the deregulation of entire economic sectors; and the deteriorating living and working conditions of workers and their families. It was for all these reasons that Worker members considered that workers had need now more than ever of the ILO and its standards policy. Certain speakers considered that the ILO never stopped adopting new instruments. This completely ignored the realities of recent years. A quick glance at the International Labour

Code was all that was required to realize that this was not the case. The adoption of the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up in June 1998 and the Worst Forms of Child Labour Convention, 1999 (No. 182), demonstrated that the ILO was moving in the right direction, and not adopting new useless standards. Some felt that it would be more desirable to have a world with no stop lights, i.e. without social regulations, and had called for the abolition of international standards and the supervisory system of the ILO. The Worker members, however, did not want to be held accountable for what that implied – a globalized economy, functioning under the invisible hand of Adam Smith. Either one had to affirm in good faith the advantages of globalization, or a case could be made for the abolition of universal standards, but not both at once. Workers' organizations were not opposed to globalization, but only to uncontrolled globalization and to deregulation which took account only of economic growth and profitability, in fact, only of profit. As far as the Worker members were concerned, economic globalization should go hand in hand with social globalization, in other words, with the valuable heritage which had grown out of ILO principles, Conventions, Recommendations and the supervisory system of which they considered themselves to be custodians. The Worker members expressed their incomprehension of the "alarmist" attitude adopted by Employers and a number of governments to the revision of standards. This was not a new debate, and it was useful. The Chairperson of the Working Party on Policy regarding the Revision of Standards had presented an extremely coherent report on the work undertaken by the Working Party and the concrete and tangible results obtained to date. The Worker members requested a more serene debate on these points, in keeping with the ILO mandate and the importance of its mission and current global realities. It was not the role of the Worker members to follow an ideology out of touch with the realities of today's world of work or based on a minimum of factual data. If, at times, there was a tendency to "over-interpret", it was certainly not the Committee of Experts, the Workers' group or the majority of governments present who were at fault.

55. The Worker members stated that the standards system should not only be the heart of the ILO, pumping fresh vitality into the Organization and its constituents, but should also be its backbone, providing an infrastructure and support to all its activities. The Worker members reiterated their firm conviction that international labour standards remain the sine qua non for structured and sustainable social development based on social justice.
56. The Employer members wished to clear up some misunderstandings which may have occurred with respect to their previous statements. With regard to the concept of globalization, several speakers had pointed to the alleged dangers of this phenomenon. The Employer members wished to underline the importance of examining the consequences of the globalization process and stressed the need to examine the chances and opportunities globalization offered. In order to ensure that all parties could participate in and benefit from globalization it was important to create conditions for free and fair trade, which on the one hand would respect the comparative advantage of certain countries while on the other ensuring that all countries of the world could profit from the opportunities created. Furthermore, it was important that all participants in the globalization process be able to react quickly to the numerous changes brought about by the rapid evolution of the global economy. There was a clear need for rules to which all could adhere, as well as a need for more investment in education. Moreover, globalization also demanded better standard setting for the future. The Employer members wished to clarify that their position was not that standards were obsolete, but rather that better standards were needed. In this context, recalling the difficult and lengthy discussions concerning the amendments to the Constitution, they noted that the report of the Working Party on Policy regarding the Revision of Standards showed that at least 76 Conventions examined to date were no longer up to date, were totally out of date, or needed revising. An examination of the need for revision of the remaining Conventions would most likely lead to the conclusion that

50 per cent of these Conventions were no longer up to date, out of date or needed revision as well. It was therefore not an exaggeration to say that the ILO's standard-setting structure was no longer up to date. There was a need for new types of standards in the future. The Employer members wished to reiterate that they attached great importance to certain standards, such as the Worst Forms of Child Labour Convention, 1999 (No. 182). Nonetheless, in the future standards policy should include different types of standards, such as guidelines, principles, and Conventions with fewer technical details and provisions. These types of standards should be useful for both employers and workers and should be based on a wide consensus. In this regard, the idea of trial standards should be examined. It was crucial that standards could be tested as to the consequences resulting from their ratification. As national laws are often tested as trial laws, the ILO should consider following this lead as well.

57. The Employer members wished to address the objection raised by a Government member of Germany that the withdrawal of standards was impossible under international law. While the withdrawal of ILO Conventions was certainly more complicated than the abrogation of national laws, the feasibility of doing so had already been examined and approved by the ILO Conference. Furthermore, the question of what the world community desired was more important than this legal question.
58. The Employer members also addressed a point raised by the Worker member of the United Kingdom made in response to the Employer members' introductory statement to the Committee. They wished to clarify that in their introductory statement they merely stated that ILO standards reflected the conditions present at the time they were adopted. Furthermore, they wished to point out that jurisprudence was not comparable to that in a system based on precedent, which existed only in the absence of written legislation. Strictly speaking, jurisprudence was the application by courts of written law. The Committee of Experts had always rightly considered its deliberations as comments on individual cases, and these were only considered as jurisprudence in order to emphasize their value. As the Committee of Experts had stated on numerous occasions it did not have the function of a judicial body, and therefore its comments could not be considered as jurisprudence.
59. The Employer members, in response to a point raised by the Worker member of the Netherlands concerning the rate of ratifications, repeated their observation that the number of ratifications had dropped significantly in recent years. They agreed that this drop in the rate of ratifications was a reflection of the lack of political will to ratify Conventions. Behind this lack of political will there was a concrete tendency not to continue ratifying Conventions. It was therefore necessary to adopt different types of standards, as also acknowledged by several governments.
60. The Employer members wished to address a point which had been raised on occasion concerning the alleged inherent contradiction between capital and labour. They recalled that the function of employers was to create products at the lowest cost with the highest working conditions possible. This was only possible if there was close cooperation between workers and employers, which could only be ensured through social dialogue. Even if agreement was not achieved on all matters, social dialogue was the business of everyone in the Committee out of a sense of social responsibility for all concerned. Those who believed that labour and capital were irreconcilable were repeating political dogma which belonged in the dustbin of history.
61. The Committee noted with interest the information communicated by the Government representatives of the following countries with regard to future ratifications: *Belgium* (the Belgian Parliament would examine during the summer a Bill to approve the Worst Forms

of Child Labour Convention, 1999 (No. 182)); *China* (the Government was examining the possibility of ratifying the Worst Forms of Child Labour Convention, 1999 (No. 182), and the ratification procedure for the Safety and Health in Construction Convention, 1988 (No. 167), the Labour Administration Convention, 1978 (No. 150), was under way); *Czech Republic* (the Workers' Representatives Convention, 1971 (No. 135), the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), the Labour Administration Convention, 1978 (No. 150), and the Safety and Health in Mines Convention, 1995 (No. 176)); *Ethiopia* (the Forced Labour Convention, 1930 (No. 29), and the Worst Forms of Child Labour Convention, 1999 (No. 182), were before Parliament for examination); *India* (the ratification of the Worst Forms of Child Labour Convention, 1999 (No. 182), was at a very advanced stage and legislation was currently being drafted to set the minimum working age at 14 years with a view to ratifying the Minimum Age Convention, 1973 (No. 138). Moreover, the ratification of the Protocol of 1990 to the Night Work (Women) Convention (Revised), 1948 (No. 89), had been envisaged); *the Islamic Republic of Iran* (the Minister for Labour and Social Affairs recently submitted a favourable opinion on the Worst Forms of Child Labour Convention, 1999 (No. 182), to the Iranian President. The President had given his support to the ratification of the Convention, which was currently before the Iranian Parliament); *Lebanon* (the authorities were currently examining the ratification of the Worst Forms of Child Labour Convention, 1999 (No. 182), and measures to give effect to the Convention); *Paraguay* (the Government had recommended the ratification of the Worst Forms of Child Labour Convention, 1999 (No. 182), to Parliament); *Philippines* (the Forced Labour Convention, 1930 (No. 29), and the Worst Forms of Child Labour Convention, 1999 (No. 182), were currently being ratified and the tripartite consultations required under the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), had been completed, so that the ratification procedure was expected to commence shortly); *Portugal* (the proposal recommending adoption of the Worst Forms of Child Labour Convention, 1999 (No. 182), had been presented to the Assembly); *Sri Lanka* (the ratification of the Worst Forms of Child Labour Convention, 1999 (No. 182), was expected to be completed in several months); *Switzerland* (the ratification of the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), and the Worst Forms of Child Labour Convention, 1999 (No. 182) would shortly be deposited).

Fulfilment of standards-related obligations

62. The Worker members recalled that ratification in itself was not enough. Governments also had to submit reports regularly. In this connection, they observed that only 61 per cent of the reports requested had reached the ILO, and that many of these were not complete. They noted with regret that the table listing reports received and not received contained in the annex to the report of the Committee of Experts showed that approximately one-quarter of the member States had not sent a report or had failed to send the majority of reports which had been requested from them. The proper functioning of the supervisory system depended largely on the timely submission of the reports requested and, despite the recent reforms, the figures concerning the submission of reports were neither very positive nor very encouraging. The changes made to the reporting system to facilitate the task of member States would be evaluated in 2001 and the Worker members looked forward with interest to the discussion in this connection at the 2002 session of the Conference. The Worker members, referring to paragraph 79 of the Committee of Experts' report, raised the question of incomplete reports. They recalled that the failure of a government to cooperate with the supervisory bodies was sufficient reason for the inclusion of that country on the list of individual cases, to reinforce the conclusions, or even to mention them in a special paragraph.

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- 63.** The Worker members reiterated the role of employers' and workers' organizations in ILO procedures and observed that the Committee of Experts had, yet again, received a large number of observations from these organizations (257, the great majority of which came from workers' organizations). They stressed that in order to have an overall picture of the reactions formulated by workers' organizations, account should be taken of other ILO procedures in which these organizations were involved, in particular representations under article 24 of the Constitution and complaints under article 26 of the Constitution, as well as complaints submitted to the Committee on Freedom of Association, which had increased substantially. The Worker members, moreover, endorsed the Committee of Experts' remarks on the relatively small number of comments submitted by employers' and workers' organizations on the application of Conventions relative to child labour, though these organizations had a role to play in supervising the application of these Conventions.
- 64.** The Employer members noted that the Committee of Experts had regretted the decreasing number of reports submitted by member States. Many countries did not meet their obligations in this respect. Yet, if member States did not report to the Committee of Experts and the Conference Committee, it would be impossible to determine whether they were discharging their obligations. Even though compliance with reporting procedures was a fundamental obligation, only 61.4 per cent of the reports requested had been received prior to the close of the Committee of Experts' session, which marked an historical low point in the discharge of member States' obligation to report. The Employer members welcomed the inclusion of the names of member States who had submitted reports following the Committee of Experts' session, but prior to the Conference, which they had been requesting for a number of years. However, several years would still be necessary to identify the countries for whom this had become a systematic practice, in an attempt to avoid the Conference Committee's criticisms. The Committee of Experts also deplored the delays in submitting first reports following the ratification of a Convention. It was difficult to understand why delays occurred, particularly since prior to ratifying a Convention, a country should have studied its law and practice to ensure that it would not encounter any practical difficulties in preparing its first report. Difficulties in submitting first reports were rarely brought to the attention of the Conference Committee, which tended to examine only critical cases.
- 65.** The Employer members stated that information on cases of progress was always a very positive section of the Committee of Experts' report. They regretted that the Conference Committee had to concentrate on critical cases.
- 66.** The Employer members noted that the Committee of Experts had requested that reports submitted on Conventions include information on their application in practice and had named the countries that had supplied this essential information. They considered that such information was essential in reports on the application of Conventions.
- 67.** The Employer members stated that the growing number of representations submitted under article 24 of the Constitution showed that there was a need to revise this procedure rapidly. In fact, national disputes were being brought before an international forum. In its 1999 report, the Committee of Experts had raised the possibility of making practical changes in the foreseeable future. These issues were obviously raised in reference to the current discussion on the standards policy and should not be left unresolved indefinitely. Moreover, these changes were required to allow the increasing number of cases submitted to the Committee on Freedom of Association to be addressed. While most of these cases were initiated by workers' organizations, employers' federations should also have an opportunity to express their views, which was not always the case in practice.

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- 68.** The Employer members noted the general considerations reiterated by the Committee of Experts on the submission of Conventions and Recommendations to the competent authority and the explanations provided in regard to the obligation to submit. In certain cases, delays in submitting instruments to the competent authorities extended over several years. However, the prescribed timescale of 12 or 18 months in which instruments should be submitted following their adoption might be too short for democratic countries where numerous consultations were required at different levels. Consideration should therefore be given to examining how the submission period could be extended.
- 69.** Several Government members (Cuba, Germany, Kenya and Portugal) expressed concern at the growing number of governments who were failing to fulfil their reporting obligations and reiterated that the supervisory procedures could only function properly if reports were submitted to the Office. The Government member of Germany, supported by the Government members of Cuba and Portugal, considered that the ratification of Conventions should be accompanied by information and technical assistance. The Government member of Kenya stated that it was also necessary to determine whether the obstacles preventing the ratification of Conventions were of an administrative, financial or technical nature and to provide assistance to help countries meet their constitutional obligations.
- 70.** The Government member of Germany emphasized that the arguments put forward by the Employer members on recourse to the representation procedures as well as to the special procedures of the Committee on Freedom of Association were unconvincing. The high number of these cases should not be criticized, as workers whose rights had been violated were entitled to seek legal redress. Moreover, when article 24 of the Constitution had been drawn up, it was understood that internal conflicts would be brought before an international forum.
- 71.** The Worker member of Germany shared the opinion of the Government member of Germany. Regarding the adoption of the Declaration, the Worker member of France emphasized that the content of the Global Report revealed persistent violations of freedom of association. These violations fully justified the existence of the Committee on Freedom of Association. The Worker member of Greece trusted that the statements made by the Employer members were not intended to restrict the activities of the Committee on Freedom of Association. The Worker member of Singapore noted that international standards and tribunals existed because of individual countries' inability to resolve disputes at national level.
- 72.** The Worker members referred to a number of statements regarding representations and complaints according to which the ILO received a flood of complaints, and the implication that complaints were unfounded and were made without due consideration. However, data contained in the Office report to the Governing Body revealed that the number of representations brought under article 24 numbered 89 over the 80 years of the ILO's existence, which was slightly more than one complaint a year. In 1994, however, there had been a bumper crop of 13 representations. If account was taken of the 182 Conventions, 175 member States and the several thousands of trade union and employers' organizations which could lodge complaints if they so wished, clearly, the problem lay not in the number of complaints registered but in an underutilization of the complaints procedure. The Office acknowledged the underutilization of the complaints procedure and had attributed the slight increase in the number of complaints registered in recent years to a "growing awareness of the existence of and the mastering of ILO procedures by employers' and workers' organizations", which was due "in part to the promotional and informative activities undertaken by the Office, following an instruction handed down by the Conference and the Governing Body at the beginning of the 1980s, as well as to the

development of the democratic process in an increasing number of countries”. Once again, choices had to be made. Either representations and complaints could be accepted as an integral part of the ILO supervisory system, or the increase, albeit modest, in the number of representations and complaints could be deplored.

73. The Worker members expressed their gratitude to governments who had kept the Committee abreast of developments in the ratification and application of ILO Conventions in their respective countries, even when this information had not been submitted in the required form and outside of the prescribed time limits to be included in the Committee of Experts’ annual report. They deeply regretted the extremely low number of reports submitted under article 22 of the ILO Constitution and trusted that the Office would increase its dialogue with governments on this to remedy this situation.
74. The Employer members, referring to the representations and complaints procedures, recalled that they had never called for the abolition of these procedures, just for some necessary changes. They remained convinced that organizations which made representations and complaints should be required to be based in the country against which these procedures were initiated. Furthermore, they pointed out that while these procedures were addressed to the governments of the countries concerned, it was at the same time the employers who were the target of these procedures. Employers in general were not given the opportunity to present their point of view in these procedures. A reform of these procedures was therefore needed so as to guarantee the principle that all parties to a proceeding should have the right to be heard before a final decision is taken.
75. The representative of the Secretary-General stated that the current practice of the Committee was not to consider comments received by “third parties” (employers or trade unions) unless they were submitted through the government. The Committee did re-examine from time to time its procedures and this question could be considered during the next such re-examination, if the Employer members were to make such a request.

Other questions concerning the application of particular Conventions

The Forced Labour Convention, 1930 (No. 29)

76. The Worker members stated that following the discussions in the Conference Committee in 1998, the Committee of Experts had included a general observation in the report presented to the 87th Session of the Conference with a view to obtaining information from all States bound by [Convention No. 29](#). The Worker members stressed the importance of this observation and looked forward with interest to the results which would appear in the report next year.
77. The Government member of the United Kingdom referred to the issue of prison labour mentioned in the Committee of Experts’ report. He recalled the detailed discussion that took place in the Committee in 1999 on the issue of work performed in privately managed prisons when it examined individual cases under the Forced Labour Convention, 1930 ([No. 29](#)), and noted that many of the member States acknowledged that application of a Convention which was drafted some 70 years ago raised a number of complex issues in today’s setting. He noted the Committee of Experts’ determination that the question of prisoners being “hired to or placed at the disposal of private individuals, companies or associations” merited fresh attention. In that regard, he noted that the Committee of Experts had requested responses to last year’s general observations, that the responses would be due in 2000, and that the Committee of Experts intended to address this issue in its next report. A full and detailed examination of the issue of work in privately run prisons

should most appropriately take place next year after the Committee of Experts had reported on this issue. The Committee would then be in a far better position to examine the issue in a global and comparative context, which would be more constructive than examining individual cases in isolation. The Government member of Kenya considered that the issue of prison labour, as defined in the Convention, merited fresh attention. The Government member of India considered that the Convention was not the appropriate instrument to address the issue of child labour.

- 78.** The Worker member of the United Kingdom looked forward to a constructive discussion in the Conference Committee in 2001 concerning the exploitation by private companies of prisoners held in both state-run and private prisons. The fact that this matter would be covered in greater detail in the report of the Committee of Experts next year did not relieve any government of its existing obligations. Moreover, he welcomed the comments made by the Committee of Experts concerning several cases which once again clarified the obligations deriving from the ratification of [Convention No. 29](#).

Conventions on child labour

- 79.** The Worker members expressed their satisfaction at the weight given by the report to the ILO's instruments in the struggle against child labour. The adoption of the Worst Forms of Child Labour Convention, 1999 ([No. 182](#)), was a crucial step forward in meeting this objective and the first ratifications were registered shortly after this new instrument had been adopted. To date, 19 member States had ratified Convention No. 182 and ratification procedures were also under way in a large number of member States. The next step consisted of implementing the provisions of this Convention and the Statistical Information and Monitoring Programme on Child Labour (SIMPOC) as well as the Labour Inspection Convention, 1947 ([No. 81](#)) could prove instrumental in this task.
- 80.** The Employer members observed that the general part of the report dealt in detail with child labour matters and that the Worst Forms of Child Labour Convention, 1999 ([No. 182](#)), had been adopted unanimously and had received its first two ratifications shortly after its adoption in November 1999, allowing it to come into force in November 2000. In that regard, a race appeared to have taken place amongst member States as to which would be the first to ratify this Convention. The ensuing result was that one of the first ratifications was from a member State experiencing great difficulty in meeting its constitutional obligations to report on the application of ratified Conventions. In this respect, the Employer members concurred with the Committee of Experts that ratification was, naturally, not an end in itself. However, rather than stating that ratification was "a manifestation of a State's international commitment and willingness to account for any allegation of non-observance", the Employer members believed that ratification was first and foremost an expression of the obligation to apply the content of the ratified Convention, as well as a State's readiness to report on the application of Conventions in the event of alleged non-observance. In the case of Convention No. 182, this meant the global elimination of the worst forms of child labour. Furthermore, a meaningful and complete report should not only contain information on the legal provisions in force, but also on their practical application.
- 81.** Several Government members (Cuba, Egypt, Germany, Kenya, Lebanon, Portugal and Sri Lanka) referred to developments noted by the Committee of Experts on the application of the Conventions on child labour. The Government member of Kenya considered that protecting children was an essential element in the pursuit of social justice and universal peace. Child labour countered all efforts focused on enabling individuals to achieve self-fulfilment, to secure dignified and decent work and to eradicate poverty.

82. The Government member of Portugal welcomed the considerable number of ratifications registered for [Convention No. 182](#), while emphasizing the importance of ratifying and implementing [Convention No. 138](#). The Government member of Cuba called upon the Committee to clarify the relationship between these two Conventions. On the issue of child labour, the Government member of Germany referred to the considerable discrepancies between the existence of appropriate legislation and its application in practice. In this regard, it was indispensable to have statistical data and other information on the practical application of these Conventions in order to obtain a realistic picture of child labour in different countries. Similarly, information concerning labour inspection and the nature of the sanctions imposed was also necessary. The Government member of Cuba shared the view that it was necessary to introduce a wide range of practical economic and social measures, such as developing educational systems, adult employment and health programmes, and, more generally, the level of social protection, which impacted directly on children and on their overall opportunities for development. The Government member of Lebanon also referred to the need for practical measures including the effective application of legislation prohibiting child labour, creating conditions which were conducive to economic and social development, reliable studies which would identify sectors employing child labour, incentives to compensate for the withdrawal of child labour and training programmes. The Office should provide assistance to countries upon request, and the International Programme on the Elimination of Child Labour (IPEC) had a major responsibility in this area. One of its principal tasks was reinforcing labour inspectorate activities in monitoring the application of national laws and ratified Conventions governing child labour through the ILO training programmes, designed to help labour inspectors detect and resolve child labour cases. The Government member of Egypt referred to the lack of accurate and reliable statistical information on child labour and stressed that accurate data collection was a vital step in developing the most effective systems to combat child labour, as well as allowing the effectiveness of these systems to be assessed. He added that surveys on child labour should be developed using a valid statistical methodology. He recalled that the summit of the Organization of African Unity (OAU) had recommended the ratification of the Worst Forms of Child Labour Convention, 1999 (No. 182).

83. The Worker member of the United Kingdom noted that the Committee of Experts had reported that the number of ratifications of [Convention No. 138](#), previously considered by some outside the Workers' group as unratifiable, had jumped from 52 in 1996 to its current level of 83, with more ratifications expected.

Employment Policy Convention, 1964 ([No. 122](#))

84. The Worker members recalled that [Convention No. 122](#) was a priority Convention, since employment policy was the cornerstone of a solid social and economic policy. The Worker members referred to the paragraph of the Committee of Experts' report regarding the obligation to consult the social partners and wished to place this point within the wider framework of economic development. They noted that the Committee of Experts had referred to discussions which took place during the WTO Ministerial Conference in Seattle in 1999. The Worker members felt that if the Seattle meeting had collapsed, it was largely due to the opposition of trade unions and non-governmental organizations (NGOs). In fact, NGOs were opposed to a globalization which took account only of economic aspects and which served only the interests of those who held economic and financial power. Those who opposed such a globalization could accept it only if it went hand in hand with a social dimension and benefited not only workers but also the general population. In this context, events observed in the field proved that international labour standards and social policy were essential elements in ensuring economic, social and political development. The Worker members noted that the Committee of Experts had requested member States to

examine the manner in which social protection could be extended and awaited the results with interest.

- 85.** The Worker members recalled that countries undergoing structural adjustment programmes or highly indebted countries did not have the means to implement coordinated employment policies, which was why it was important to reschedule debts, provide debt relief and offer international aid to contribute to sustainable social and economic growth. International financial organizations such as the International Monetary Fund (IMF) and the World Bank should take full account of this social dimension. In this context, the Worker members expressed great interest in World Bank and IMF initiatives in favour of heavily indebted countries to eradicate poverty, mentioned by the Committee of Experts. They felt that these organizations should now strive to promote international labour standards and social policy and integrate them into their programmes and activities. Moreover, the Worker members referred to the follow-up to the Copenhagen Social Summit, which would take place in Geneva at the end of June 2000, and expressed their hope that the meeting would be operational and establish mechanisms to supervise progress achieved in eradicating poverty.
- 86.** The Employer members noted that an important section of the Committee of Experts' report was devoted to the application of [Convention No. 122](#). The Committee of Experts had expressed the need for precise information on a number of points regarding the application of the Convention, including active labour market and training policies, and had emphasized the need for a coordinated monetary and social policy. If job creation and social policies were to be successful, it was necessary to develop a society which created opportunities, rather than a protective society, which implied the application of the principle of subsidiarity. Social policy meant helping people to help themselves. While most active labour market measures had a negative impact on economic performance, activities such as assisting jobseekers in securing employment and vocational guidance had a positive impact. The Committee of Experts, in referring to the WTO Ministerial Conference in Seattle, had considered that wider dialogue in civil society was one of the linchpins of sustainable economic growth in an era of globalization of markets. The Employer members doubted that civil society had made its voice heard during the Seattle meeting. Instead of dialogue, there had been disorder. For civil society to be equated with a market society, enterprises required openness and freedom of entrepreneurial action, characterized by self-regulation rather than state regulation. Nevertheless, according to the explanation given by the Director-General of the WTO, the disagreements in Seattle were due to the attitudes of governments. The Employer members referred to the comments made by the Committee of Experts concerning the need for adequate social safety nets in open economies, but disagreed with the idea that such measures should seek to cover as much of the population as possible. While the Employer members were of the opinion that social measures should be made available to all in varying degrees, they felt that there was a danger that they would rapidly become overburdened and collapse. All social benefits should be targeted as far as possible to cover real needs and to help people help themselves. As regards part-time work, the Employer members were of the opinion that, while part-time work might indeed conceal hidden unemployment, it was better than no employment at all. Moreover, in certain countries there was a great demand for part-time work, arising in part from the individualization of society. The Employer members concurred with the Committee of Experts on the importance of promoting self-employment, which, they added, had been a major factor in creating a large number of jobs. In certain sectors and, particularly in information technology, each new start-up led to the creation of many new jobs. However, promoting self-employment ran the risk of distorting competition. In order to promote self-employment, fiscal and legal frameworks were required as were training systems and a climate conducive to the spirit of entrepreneurship.

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- 87.** The Employer members emphasized the need to take account of the quality of jobs and noted that several aspects of the concept of full employment were controversial. If too great an emphasis was placed on the quality of jobs, the number of new jobs created could fall, and in view of the employment situation, there was an urgent need to create a large number of new jobs.
- 88.** The Employer members disagreed with the concept expressed in the report of the Committee of Experts that the objective of full employment “set as a minimum criterion the application in law and practice of the Conventions included in the Declaration”. This concept could be misinterpreted and ran the risk of placing the Declaration on Fundamental Principles and Rights at Work on an equal footing with standards. The Employer members were opposed to this concept, and the Declaration had not been adopted on that premise.
- 89.** Several Government members (Belgium, Cuba, India, Kenya, Lebanon, Nigeria and Portugal) referred to the importance of an employment policy within the framework of globalization. The Government member of Cuba stressed that wide-ranging social dialogue involving vulnerable groups extending the reach of social protection was an integral component of employment policies, developing educational systems and occupational training and their links to employment policy, were factors that could be highly beneficial for measuring the success of national employment policies. Although [Convention No. 122](#) was not among the Conventions considered to be fundamental, it nevertheless remained a priority Convention, since effective employment policies formed the basis of all economic and social development and without such policies the remaining Conventions and rights could not be applied. The Government member of Portugal considered productive and freely chosen employment a sine qua non for the enjoyment of other fundamental rights, and social dialogue and cooperation contributed to the attainment of fundamental rights. The Government member of Lebanon questioned the possibility of achieving the fundamental principles embodied in the Convention, namely the promotion of full and freely chosen employment, in today’s changing world and how ILO programmes such as the InFocus Programme on Boosting Employment through Small Enterprise Development, and the More and Better Jobs for Women Programme, could lead to the creation of new jobs. Particular attention should be accorded to the informal sector. The Government member of Nigeria referred to the ILO “Jobs for Africa” programme, which had not become operational because of lack of funding, and hoped that additional funding from the ILO and the United Nations Development Programme (UNDP) would be forthcoming. He also considered that foreign investments would contribute to the development of the modern sector and the promotion of micro and small enterprises. The Government member of Kenya called for the development of social and economic systems which would guarantee basic security and employment while remaining capable of adapting to rapidly changing conditions in a highly competitive global market. Promoting employment as a core objective of macroeconomic policy was an essential responsibility of the ILO.
- 90.** The Government member of Belgium mentioned an apparent paradox. On the one hand, globalization had caused frontiers to break down and generated a global economy and, on the other hand, the need for local development to generate employment was being increasingly felt. In this respect, the Government member considered that the Seattle meeting had helped increase understanding of the impact of the liberalization of trade and social development. There was a growing awareness that reference to fundamental labour standards was unavoidable as the foundation of the international consensus on the basis of social development.
- 91.** The Government member of India, referring to the issue of the social dimension of the liberalization of international trade, expressed concern at the efforts of organizations

outside the ILO to use labour issues to derail trade agreements and expressed his dissatisfaction at the interference of other organizations in ILO areas of competence, whether acting alone or in unison.

92. Several Worker members (Colombia, Guatemala, Italy, Pakistan, Singapore, Turkey and Uruguay) referred to globalization and its social repercussions, and some referred to IMF, World Bank and WTO policies and the need for greater cooperation with these organizations. A number of Worker members referred to the situation of workers employed in export processing zones, particularly female workers, where the Equal Remuneration Convention, 1951 (No. 100), and the Discrimination (Employment and Occupation) Convention, 1958 (No. 111) were being violated.

Other international and regional aspects

93. The Worker members considered that, as regards the ILO and other international institutions, it was extremely important for the future of the Organization and social globalization that the ILO succeeded in imposing respect for fundamental labour standards throughout international institutions, and in obtaining broader recognition of its exclusive competence in elaborating, adopting, applying and supervising labour standards.
94. The Worker members underlined the importance of the June 2000 follow-up to the World Conference on Women, held in Beijing in 1995. In the light of the current situation facing women in all corners of the globe, and particularly working women, it was important to take full advantage of this Conference to evaluate the commitments made by the international community within the framework of the 1995 Beijing Conference. The Worker members noted with approval that the ILO had participated in the preparation of this year's Conference. One of the topics which should be brought up in the discussion on the promotion of women was the redistribution of wealth and equitable access to natural and economic resources. In this regard, the Worker members emphasized the importance of creating a social security system which would benefit male and female workers in the formal and informal sectors, and the important role which the ILO could play in this regard.
95. The Employer members noted that the functioning of the constitutional procedures also raised the issue of the Office's limited capacity. The question of capacity also arose with regard to the functions carried out by the ILO in regard to other international instruments and its cooperation with international organizations. The Employer members recalled the particular importance of the ILO's collaboration with other organizations in the field of human rights instruments. However, in this area the ILO needed to cultivate its own human rights instruments, namely the eight fundamental Conventions.
96. Several Government members (Belgium, Cuba, Denmark (on behalf of the Nordic countries), Portugal and Sri Lanka) referred to the functions relative to other universal and regional international instruments and cooperation between the ILO and other international organizations. The Government member of Germany emphasized the regular and solid cooperation between the Committee of Experts and the United Nations Committee on Economic, Social and Cultural Rights. The Government member of Cuba considered the Committee of Experts, when discussing cases referred to by other United Nations supervisory bodies, could check whether the corresponding reports had been endorsed or rejected by those bodies. The Government member of Denmark (on behalf of the Nordic countries) welcomed the cooperation with the Office of the High Commissioner for Human Rights, and the Government member of Portugal considered that the ILO's growing involvement in the work of other international organizations would promote ILO values in these organizations. The Government member of Sri Lanka referred to the

situation of child soldiers and looked forward to seeing the ILO work closely with the United Nations Committee supervising the UN Convention on the Rights of the Child in this regard. The Government member of Belgium considered that the links referred to in the report, particularly in the field of human rights, and the links with the European Code of Social Security as well as the European Charter, should continue to inspire the ILO.

Technical cooperation relating to standards

- 97.** The Worker members stressed the important role played by technical assistance on standards and reiterated their support of ILO activities to strengthen the application of international labour standards, particularly through multidisciplinary advisory teams (MDTs) and training seminars. The resolution adopted by the Conference in 1999 in respect of the ILO's role in technical cooperation, provided a series of guidelines to strengthen further ILO activities in this field.
- 98.** The Employer members commended the work carried out by the multidisciplinary advisory teams.
- 99.** A number of Government members (China, Cuba, Denmark (on behalf of the Nordic countries), Egypt, Ethiopia, the Islamic Republic of Iran, Kenya, Lebanon, Nigeria, Paraguay, the Philippines and Portugal) reiterated the advantages of technical assistance. The Government member of China noted that significant progress had been achieved worldwide in the field of international standards and trusted that the ILO would continue to provide technical resources and expertise to facilitate the ratification and application of Conventions. The Government member of the Islamic Republic of Iran noted that technical cooperation and training programmes could facilitate ratification. The Government member of Egypt considered that technical assistance to bring national legislation into conformity with ratified Conventions should be strengthened. The Government member of Cuba emphasized the invaluable assistance provided by the standards experts at headquarters and in the MDTs. The Government member of Denmark (on behalf of the Nordic countries) referred to the difficulties in filling vacancies in the MDTs.
- 100.** The Government member of Kenya expressed his appreciation of the various activities undertaken by standards specialists through the MDTs to ensure that international standards were taken into account when formulating national objectives and technical cooperation programmes. Technical assistance in all its forms assisted member States in better fulfilling their standards-related obligations. The Government member of Nigeria expressed his regret that the English-speaking West African countries did not have their own MDT to assist them and looked forward to seeing this situation corrected.
- 101.** The Government member of the Philippines referred to the various assistance measures taken by the ILO to promote observance of international standards, including the exchange of information and direct contacts missions. The identification and promotion of best practices in the application of Conventions would help countries to overcome practical problems in ratifying and applying Conventions. The funds necessary to carry out these tasks should be allocated.
- 102.** The Government member of Paraguay referred to technical assistance provided by the ILO to technical cooperation projects with other countries of MERCOSUR, and the assistance furnished in the field of standards to assist in the fulfilment of reporting obligations.
- 103.** The Worker member of Guatemala said that the ILO should be encouraged to pursue and strengthen activities which would permit governments to develop policies and strategies which would ensure the effective application of Conventions, and the Worker member of

Pakistan hoped to see greater emphasis placed on worker education, through workshops, the publication of educational material, and the translation of the Conventions into the national languages.

- 104.** The Worker members again underlined the importance of the work carried out by the International Labour Standards Department, particularly in promoting a better understanding of ILO standards, and considered that the Department should have the resources necessary to enable it to fulfil its functions.
- 105.** Several Government members (Canada, Germany, the United States) referred to the question of resources. The Government member of Germany considered the Office should have sufficient human resources to enable it to carry out its technical assistance activities. The Government member of Canada considered that sufficient resources should be made available to the ILO to enable it to assist member States to fulfil their reporting obligations. The Government member of the United States pointed out that the Director-General needed to ensure that sufficient resources were available to allow the standards department to accomplish its technical assistance activities in an effective and timely manner.

C. Reports requested under article 19 of the Constitution

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), and Tripartite Consultation (Activities of the International Labour Organization) Recommendation (No. 152), 1976

- 106.** The Committee devoted part of its general discussion to the examination of the second General Survey made by the Committee of Experts on the application of the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), and the Tripartite Consultation (Activities of the International Labour Organization) Recommendation (No. 152), 1976. In accordance with the usual practice, this survey took into account information communicated by governments under article 19 of the Constitution, as well as the information communicated by member States which have ratified the instruments in their reports submitted under articles 22 and 35 of the Constitution, and the comments received from employers' and workers' organizations to which the government reports were communicated in accordance with article 23(2) of the ILO Constitution.

The need for tripartite dialogue

- 107.** The Employer members welcomed the General Survey, which clarified many aspects of the application of the Convention and Recommendation. They recalled that tripartism was one of the pillars of the ILO. Enshrined in the ILO's Constitution, the tripartite character of the ILO distinguished it from other international institutions. Despite the various changes that the ILO had undergone over the past 80 years, the validity of the tripartite system which put workers and employers on an equal footing with governments had never been called into question. The Employer members recalled that it was in the Committee on the Application of Standards in 1972 that the possibility of adopting an ILO instrument dealing specifically with the establishment of national tripartite bodies was first proposed to enable employers' and workers' organizations to participate more effectively in the standards process.

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- 108.** The Employer members noted the large number of ratifications registered for Convention No. 144 since the last General Survey in 1982. The number of ratifications numbered slightly more than half of the member States of the ILO. The Convention was a very flexible instrument which prescribed in simple terms what logic and common sense dictated with regard to consultations on ILO standards.
- 109.** The Worker members had studied with great interest the General Survey dedicated to one of the founding principles of the ILO, and commended the ILO for not only promoting tripartite cooperation in its midst but also in its instruments. Economic globalization had brought significant new challenges to employers' and workers' organizations and governments, the main players in the employment market, the most important being to seek and develop a balance between economic and social imperatives. Tripartite cooperation, based on political will, should play a role in attaining this balance and, above all, should be considered as a means of averting conflict. In a context of economic globalization, social structures could not be limited by national boundaries. Cooperation among governments, employers and workers was an essential element not only at the national level but also at the regional and global levels. In this regard, it could be said that the repercussions of Convention No. 144 were felt not only at a national level but also internationally.
- 110.** The Worker members felt it was important to recall that Convention No. 144 was among the Conventions which were called "priority" Conventions. These instruments, rather than embodying universal values as was the case with the fundamental Conventions reflected in the Declaration, offered a working method and allowed the construction of a coherent body of standards. For this reason, Convention No. 144 could not be disassociated from Conventions Nos. 87 and 98. In this regard, the Worker members drew attention to the fact that ratifying the latter Conventions without ratifying Convention No. 144 was blatantly contradictory. The resolve of many governments to implement this Convention, even to make it a cornerstone of their social policy, should be commended.
- 111.** The Worker member of Colombia pointed out the need to promote tripartism in a world plagued by all kinds of conflict. Unfortunately, in certain quarters tripartite dialogue was considered as nothing more than a diversionary tactic and not as a means of arriving at a consensus to seek social peace. The tripartite consultations envisaged under Convention No. 144 were the best means of averting the conflicts which affected workers. It was important to bear in mind that tripartism on an international level could only flourish where a culture of tripartism was practised at national level. In this regard tripartite cooperation in Latin American countries left a lot to be desired, since consultations were often carried out only after the public authority had taken a decision. The General Survey was invaluable since it provided information on how to create a world of dialogue, consensus and cooperation, founded on social justice. The Worker member of Guatemala expressed his appreciation for the General Survey which took account of the importance of tripartite dialogue as a means of resolving conflicts in a civilized and peaceful manner. However, tripartite dialogue could only be successful when both governments and employers' organizations were willing to cooperate. The Government member of Nigeria noted that Convention No. 144 served as the cornerstone for effective dialogue between the social partners and encouraged stable industrial relations. Tripartite consultation should take account of the interests of all parties in seeking a consensus on economic and social policies and promoting economic development to the benefit of society.
- 112.** The Government member of India noted that tripartism was a widely accepted fundamental principle in India for dealing with employment matters. Tripartism had led to effective social dialogue among the various organizations representing different interests in India's labour market. National labour policy had derived its inspiration and strength not only

from the provisions of the Indian Constitution, ILO Conventions and Recommendations, but also from the decisions taken by national tripartite bodies over the past 50 years. The Government member of China expressed his conviction that the General Survey would help member States to apply the principle of tripartism. Tripartite consultation was intertwined with the ILO's activities and it was heartening that in countries which had not ratified [Convention No. 144](#) various forms of consultation took place with social partners. The Worker member of Spain considered that tripartism should be considered as a means of regulating the economic and social issues which affected employers and workers. It was disappointing that the Committee of Experts' report confined itself to examining Convention No. 144 and the obligation to establish a tripartite consultation procedure on matters related exclusively to the ILO. The Government member of the Philippines expressed satisfaction that the General Survey was particularly relevant to the work of the Conference Committee and to the ILO's strategic objective of promoting social dialogue. The Organization derived its strength from its tripartite composition and from the substantial support it had received in involving all the parties concerned in its activities. Under Convention No. 144, employers' and workers' representatives participated with governments in examining the ratification of Conventions and in reviewing the relevant national legislation, as well as in preparing reports on the application of ratified Conventions. These same parties examined comments made by the Committee of Experts and proposed appropriate solutions to the issues raised. The relevant legislation and amendments are therefore the fruit of a tripartite consensus, patiently constructed at the national level, and subject to international supervision.

The reference to the right of freedom of association

- 113.** The Employer members stated that the definition in Article 1 of [Convention No. 144](#) clearly indicated that representative organizations were those enjoying “the right of freedom of association”. Paragraph 40 of the General Survey states that the intention of the reference to “the right of freedom of association” was to ensure that representative organizations were given the opportunity to express their opinions in total freedom and independence, which could only be guaranteed through the full respect of the principles embodied in the Freedom of Association and Protection of the Right to Organise Convention, 1948 ([No. 87](#)), and the Right to Organise and Collective Bargaining Convention, 1949 ([No. 98](#)). In adopting the 1998 Declaration on Fundamental Principles and Rights at Work and its Follow-up, member States undertook to respect and promote, inter alia, the principles of freedom of association. These principles included the right to establish and join organizations of their own choosing, the right to manage their own internal affairs without interference by the public authorities, and the right of employers' and workers' organizations to protection from acts of interference by each other. The commitment undertaken by member States in 1998 implied an acceptance of the principles of freedom of association, a prerequisite to the lifting of obstacles preventing the full application of Convention No. 144. The Employer members attached great importance to this Declaration and expressed their satisfaction that a number of governments had, of their own volition, now extended tripartite consultations to include reports under the follow-up to the Declaration.
- 114.** The Worker members referred to paragraphs 39 and following of the General Survey and noted that while [Convention No. 144](#) contained no express reference to Conventions [Nos. 87](#) and [98](#) “the right of freedom of association” provided for under Article 1 of the Convention necessarily subsumed Conventions Nos. 87 and 98. This principle was also enshrined in the ILO Constitution. The right of freedom of association was the subject of the first Global Report submitted to the Conference under the follow-up to the Declaration. The right of freedom of association did not mean that trade unions and employers'

organizations should only be tolerated but that governments should create and maintain conditions to promote their development.

- 115.** The Government member of Lebanon questioned the purpose of ratifying Convention No. 144 unless Convention No. 87 was also ratified. Tripartite consultation could not exist if the right of freedom of association was not respected. She also questioned whether the non-ratification of Convention No. 87 did not, in practice, involve violation of Article 1 of Convention No. 144. She believed that there should not be interlinkage between Conventions and that the Preamble was a better place for recalling other relevant instruments. She wondered whether in the absence of freedom of association in the sense of Convention No. 144 this Convention could not be ratified, even if consultations were held in different forms with different concerned parties. The Worker member of Pakistan considered that tripartite consultation was meaningless if the country in question had not ratified Conventions Nos. 87 and 98. He welcomed the initiative of the Director-General of the ILO to establish social dialogue as one of the four strategic objectives of the ILO. He expressed his appreciation for the support extended by the ILO in the restoration of the trade union rights of a trade union in his country. He nevertheless urged the Government to remove restrictions on the exercise of trade union rights of persons engaged in railways, agriculture and export processing zones. The Worker member of Spain considered Convention No. 144 a key Convention and expressed surprise that certain countries had proceeded to ratify this Convention without having ratified Conventions Nos. 87 and 98. In this regard, the Worker member of India said that his country had ratified neither Convention No. 87 nor Convention No. 98 on the pretext that the neutrality of government employees might be affected if their trade union rights were recognized. He considered that to give full effect to Convention No. 144 it was imperative that Conventions Nos. 87 and 98 were also ratified. The Worker member of the Netherlands was of the opinion that Convention No. 144 should be promoted in the same way as the ILO's fundamental Conventions. Tripartite consultations could only take place when all parties were fully independent.

The organizations called upon to participate in consultations

- 116.** The Employer members noted that under Article 1 of Convention No. 144, referred to in paragraph 34 of the General Survey, the most representative organizations of employers and workers could, according to national circumstances, mean more than one employers' or workers' organization. What was important was that the Government should look into the breadth of representation of both employers' and workers' organizations and the organizations' interest in taking on the responsibility for consultations. They also referred to their statement at the beginning of the discussion on the General Survey. They emphasized that the term "consultation" should be distinguished from mere "information" and the more far-reaching concept of "negotiation". The latter implied the adoption of initiatives by parties with differing or conflicting interests with a view to reaching an agreement. The consultations required under the terms of the Convention were intended to assist governments in reaching a decision, although the governments concerned remained entirely responsible for the final decision.
- 117.** The Employer members, referring to paragraphs 37 and 38 of the General Survey, expressed their concern at the growing trend of opening up the ILO's tripartite processes to non-governmental organizations (NGOs). While the ILO and its member States had institutional means of establishing the bona fides of organizations of employers and workers, this was substantially less true for NGOs. While recognizing the positive role of NGOs in developing countries, the Employer members considered that employers' and workers' organizations had demonstrated their positive and crucial roles in democratic

institutions during the last century. It had to be recognized that there were different considerations that should be applied to the role of NGOs in wider society and to the far narrower scope of matters encompassed by Article 5(1) of [Convention No. 144](#). Great care should be taken not to undermine or replace the primary role and participation of workers' and employers' organizations in consultations on ILO matters at the national level. By doing so, tripartism would be compromised as well. The Employer members were concerned that the experts might not be sensitive to these concerns. However, they emphasized that NGOs were not obliged to meet the same requirements as employers' and workers' organizations and that they tended to represent very specific positions. Moreover, some governments had promoted NGOs specifically to represent their own positions. They observed in this respect that NGOs were not covered by the scope of application of the Convention.

- 118.** The Worker members attached importance to the basic principle of the Convention in Article 1 that the representative organizations are “the most representative organizations of employers and workers enjoying the right of freedom of association”. Paragraph 34 of the General Survey reiterated the interpretation given by the Office to this notion, that a single employers' or workers' organization was not necessarily the only representative organization. It was important that there be an equilibrium between trade union pluralism, on the one hand, and, on the other, effective and manageable consultations, which was why the Worker members were calling for the adoption of unambiguous and specific national criteria to determine which employers' and workers' organizations were the most representative. Moreover, this question went beyond the strict framework of tripartite consultations as laid down under [Convention No. 144](#) since the criteria of representativity could also be applied to determine which organizations would participate in social dialogue at all levels on general employment and labour issues.
- 119.** The Worker members raised another difficulty confronting certain organizations, in addition to the question of the representativity of trade union organizations: the flow of information between governments and trade unions. In many countries, information circulated without difficulty. However, in some countries trade union organizations were not informed or were only poorly informed. It also happened that only certain organizations received information, without objective justification for this difference in treatment. To solve these problems, it was important to define clear, objective, and fair criteria in order to determine the reasons why certain trade union organizations were recognized by the government as interlocutors, while others were not.
- 120.** The Worker members also recalled that under [Convention No. 144](#), organizations other than employers' and workers' organizations could participate in tripartite consultations. These organizations might include organizations defending the interests of those, such as farmers or members of cooperatives, who were either not represented or inadequately represented by employers' and workers' organizations. These might also be NGOs. These organizations were, moreover, explicitly recognized as parties which were concerned by several other ILO instruments. The recent Worst Forms of Child Labour Convention, 1999 ([No. 182](#)), provided that “programmes of action shall be designed and implemented in consultation with relevant government institutions and employers' and workers' organizations, taking into consideration the views of other concerned groups”. Practice had shown that a considerable number of these NGOs possessed considerable expertise and were already managing a number of projects to eliminate child labour. Nevertheless, the Worker members emphasized the primacy of tripartism and therefore of dialogue with employers' and workers' organizations. The social partners were the main players in the world of work and had to be acknowledged as such.

121. The Worker member of the Netherlands added that while governments were free to consult NGOs on ILO-related matters, care should be taken not to undermine the normal process of tripartite consultations with the employers' and workers' representatives. The Worker member of Pakistan considered that care should be taken to ensure that NGOs, whose contribution was undoubtedly positive, did not assume responsibilities incumbent on trade unions or gradually replace them. The Worker member of Guatemala warned against the danger of extending tripartite dialogue to certain NGOs who were either of doubtful origin or affiliated to employers' organizations and whose sole purpose was to wipe out the trade union movement, as had been the case in Guatemala. He also referred to the problem of employer-controlled "solidarist" organizations who had received preferential considerations from the Government at the expense of the trade union organizations. Finally, the Worker member of Honduras expressed the opinion that ILO-related matters should not be the subject of consultation with parties other than the ILO constituents. He also stated that the ILO should maintain its current policies to avoid distorting its role and becoming a tool for the resolution of issues relating to economic models or systems.

The consultation procedures

122. The Employer members emphasized the flexibility of [Convention No. 144](#) in that it left it to national practice to determine the nature and form of the procedures for consultation. Different tripartite consultation procedures or approaches could thus satisfy the requirements of Article 5(1) of the Convention. A great many more ILO Conventions could be ratified if the ratification process involved requesting countries to examine whether national policy allowed the objectives of the Convention to be achieved rather than focusing on a "one size fits all" approach.

123. The Employer members noted that, as pointed out in paragraph 29 of the General Survey, "effective consultations" meant that the consultations were not token gestures but required serious consideration of the views of representative employers' and workers' organizations to assist the government in reaching a decision. In this sense, tripartism was not an easy path to take. It required organizing various means of providing adequate information to employers' and workers' organizations so that they had a sufficient basis for consultations, exchanging information on views, resolving differences and taking account of social partners' views before making a final decision. However, effective consultations could be more difficult to achieve in a federal state environment where the State was the legislative authority. The Employer members emphasized the need to differentiate between "consultation" and "information", and the more far-reaching concept of "negotiation". The latter implied the adoption of initiatives by parties with differing or conflicting interests with a view to reaching an agreement. The consultations required under the Convention were intended to assist governments in reaching a decision, for which they had final responsibility. Nevertheless, it was essential that such decisions take account of the views expressed by employers and workers. While the objective of the consultations might be to establish a consensus, employers' and workers' organizations were not bound by the final decision unless this had been explicitly agreed. Finally, Article 5(2) of the Convention provides that consultations should take place at least once a year. Less frequent consultations would be unrealistic given the range of matters on which consultations were required at different periods of the year. Governments were not required to publish annual reports on the functioning of this procedure; they were only obliged to hold consultations on whether an annual report should be published.

124. The Worker members laid great emphasis on the first key word in the Convention, namely "consultation". As indicated by the Committee of Experts in paragraph 29 of the General Survey, the term "consultation" was not synonymous with the term "negotiation", even though they were frequently interchanged. Although the public authorities were not legally

bound by the outcome of consultations with employers' and workers' organizations, the Convention required that public authorities take account of these consultations and that they justify in some way a decision to override them. The Convention provided for "effective" consultations to underpin the importance of the opinions of the social partners and to ensure that these opinions were carefully arrived at. Moreover, consultations were only effective when they took account of such factors as frequency and procedures followed. [Convention No. 144](#) laid down only that consultation procedures should be implemented, offering no guidelines on the nature or form they were to take. [Recommendation No. 152](#) provides several examples of the form these consultations could take. The Committee of Experts observed in paragraphs 52 to 73 of the General Survey how the various options described in the Recommendation were used, sometimes simultaneously. The most frequently used form appeared to be that of bodies with special competence for ILO matters, enabling the consultation of employers' and workers' organizations to become institutionalized and, in so doing, providing additional safeguards for the existence, functioning and perpetuity of tripartite consultations. Similar bodies could be found in countries that had not ratified Convention No. 144. In practice, if optimum social dialogue existed between the public authorities and social partners in these countries, this would clear the way for the governments of these countries to ratify the Convention; the ultimate goal being that member States not only ratified this priority Convention but also applied it.

- 125.** The Worker members recalled that the Committee of Experts had noted in paragraph 121 of its survey, with reference to Article 5, paragraph 2, of [Convention No. 144](#) according to which "consultation shall be undertaken at appropriate intervals fixed by agreement, but at least once a year", that consultations had effectively been held once a year in many countries and that the frequency was higher when consultations were held in an institutional framework. This observation confirmed the position of the Worker members, according to which tripartite consultations by means of bodies competent for questions concerning the ILO or having general competence in economic and social matters, provided better guarantees of holding regular and genuine consultations. Moreover, regular consultations should bring together persons who are well trained and well informed. Many countries indicated that training was not necessary since employers' and workers' representatives were sufficiently trained and had concrete experience with ILO questions. The Worker members insisted on the importance of training and called upon the ILO to carry out its role in informing and training the representatives concerned. It was essential that the employers' and workers' representatives be kept abreast of changes in the ILO in general, and in the standards system in particular, especially during this period of policy changes and the revision of standards.
- 126.** The Worker member of Japan pointed out that, as indicated in the General Survey, several governments had set up special consultative committees to consider questions related to ILO standards. It was the responsibility not only of governments but also of the social partners to do everything possible so that the Conference Committee constituted a forum where true and effective consultations might take place, rather than an institutional framework where governments explained their policies vis-à-vis the ILO without taking into account the views expressed by the social partners. It was essential that, in accordance with Article 2 of the Convention, these consultations took place before the governments finalized their replies or adopted their official positions communicated to the Office. The Worker member of India noted that one important aspect of the General Survey was the emphasis placed on the requirement for "effective" consultations. The consultation process aimed at reaching a consensus, while respecting the autonomy of the parties. To be effective, these consultations had to take place before the government took a final decision. Moreover, the mere transmission of information did not meet the purpose of tripartite consultations.

The subject of consultations

127. In the opinion of the Worker members, it was necessary to establish that tripartite consultations really pertained to questions relative to the ILO activities provided for in the Convention and the Recommendation. It should not be overlooked, however, that international labour standards did have an impact on the overall social and economic policy as applied at the national level. In paragraph 117 of its General Survey, the Committee noted that in several countries the tripartite bodies responsible for the examination of questions concerning ILO activities were also consulted with regard to similar or related activities undertaken within other international organizations, either global or regional in character. This seemed to imply that analogous tripartite consultations could possibly address the activities of the WTO, of the World Bank or of the IMF. Workers' organizations should be able to take an active part in the examination of issues dealt with by those organizations. The failure of the discussions during the WTO Ministerial Conference in Seattle demonstrated the need for participation of all the organizations concerned in this respect.
128. The Worker member of Pakistan expressed the view that tripartite consultations should not be undertaken only for the purpose of considering the matters referred to in Article 5 of [Convention No. 144](#) but also those provided for in the Consultation (Industrial and National Levels) Recommendation, 1960 (No. 113), namely the establishment and functioning of national bodies, such as those responsible for organization of employment, vocational training and retraining, labour protection, industrial health and safety, productivity, social security and welfare as well as the elaboration and implementation of plans of economic and social development.
129. The Worker member of Sweden, with reference to paragraph 15 of the General Survey, stressed the importance of consultations with employers' and workers' organizations in matters related to the revision of labour standards and the ratification of Conventions. In the absence of an appropriate mechanism of consultation with the social partners, there was a risk that revised Conventions would not be ratified. As regards in particular consultations with representative organizations in matters related to denunciation of ratified Conventions, the Committee of Experts indicated at paragraph 98 of its General Survey that governments were not bound to report in their letter of denunciation the opinions opposing denunciation expressed during those consultations. Such information was, however, crucial for the evaluation by the ILO of the needs of revision of Conventions, and the Office should require the communication of opinions expressed by the social partners at the time of denunciation of a Convention.
130. The Employer members considered that although Article 3(2) of [Convention No. 144](#) provided that employers and workers shall be represented on an equal footing in the consultation process, they were not on an equal footing with respect to cases filed for the Committee on Freedom of Association. They believed that the work of the Committee on Freedom of Association would be enhanced if employers were able to submit comments directly to the Committee on Freedom of Association in complaints affecting them or on the freedom of association situation in their countries. In addition, and regrettably, many governments did not always consult the relevant employers' organizations to seek their views.

National practices

131. Several Government members (China, Egypt, India, Nigeria, Syrian Arab Republic) as well as Worker members provided information on the application of [Convention No. 144](#) in their countries. The Government member of India stated that in his country

consultations with representative organizations of employers and workers were undertaken in a standing body or on the occasion of ad hoc tripartite meetings on ratification of Conventions, on matters related to the follow-up to the Declaration, and on the work of the International Labour Conference and of the Governing Body on the social dimensions of the liberalization of international trade. These tripartite consultations were also undertaken with respect to the items on the agenda of the International Labour Conference, or the submission of reports due under articles 19 and 22 of the ILO Constitution. These consultations took place by means of written communications in view of the impossibility of arranging for frequent nationwide meetings of the social partners.

132. The Government member of Nigeria stated that in his country tripartite consultations were undertaken within the National Labour Advisory Council which comprised representatives of the federal authorities and of those of the federate states, representative organizations of employers and workers, and the consultative associations concerned. Employers' and workers' organizations were represented within the Council on an equal footing, in conformity with the provisions of [Convention No. 144](#). The Council provided a standing forum for social dialogue, consultations and the quest for consensus on all questions related to economic and social development. The Council also transmitted its recommendations to the Minister of Employment, Labour and Productivity on the application of national laws or draft legislation in the field of labour relations and social security, as well as on the implementation of international labour standards. It met twice a year, and additional meetings could be held when necessary. The chairperson of the Council was the Permanent Secretary of the Federal Ministry of Employment, Labour and Productivity. The Council did not function under the military regime because of the dissolution of the workers' organizations, but resumed its activities under the current administration. The lack of familiarity of the members of the Council with the standards-related activities of the ILO had been a major obstacle to effective social dialogue. In this respect, the technical assistance provided by the ILO was most appreciated.

133. Some Government members (Brazil, Denmark, Greece, Portugal, Sweden) recalled that in their countries an institutional framework for tripartite consultations existed even before the ratification of [Convention No. 144](#). The Government member of Sweden emphasized that consultations involving the government or other national authorities and the social partners constituted a well-established tradition in Sweden. As was indicated in the General Survey a permanent tripartite ILO Committee was set up in Sweden in 1927. Following the ratification in 1977 of Convention No. 144, the ILO Committee was given broader responsibilities to cover all the matters referred to in Article 5, paragraph 1, of the Convention. The Committee met eight times a year and was composed of nine titular and nine substitute members. The three groups are represented on an equal footing. A growing number of national reports containing proposals in legislative matters were submitted to the Committee by different ministries for examination of their conformity with the country's obligations deriving from ratified Conventions, which attested to the Committee's authoritativeness. Much like the ILO, the Committee looked for consensus, if not unanimity. In case of conflicting views, the opinion of the majority was presented together with any reservations. The Worker member of Sweden felt that the ILO Committee provided a model as to the manner of conducting consultations with the social partners.

134. The Government member of Denmark recalled that in his country a permanent tripartite committee to consider ILO matters specifically existed since 1954. In addition, another committee was set up within the Ministry of Foreign Affairs to deal with bilateral and multilateral cooperation with the ILO. The permanent tripartite committee was composed of four representatives of each group designated by the most representative organizations. It also comprised representatives of local administrative authorities. Its meetings are

presided over by a representative of the Labour Ministry. The committees meet at least three times a year before the annual session of the International Labour Conference and the meetings of the Governing Body, in order to discuss the items placed on the agenda. The committee was also competent to formulate recommendations as to the ratification of Conventions. Consultations through written communications could also take place for the purpose of preparing replies to numerous questionnaires, letters, requests and other communications received from the ILO, in case the committees were unable to meet in ordinary session. The Convention's great merit was precisely that it allowed for a wide variety of methods and procedures of consultation with the social partners.

- 135.** The Government member of Portugal provided some explanations with respect to the reference made to her country in paragraph 71 of the General Survey. The Convention was applied through written communications in accordance with the procedures in force before the ratification of the Convention by Portugal. Moreover, ad hoc meetings could be arranged with social partners on specific issues such as the ratification of Convention No. 162 or the denunciation of Conventions Nos. 4 and 89. Finally, consultations were frequently undertaken within other tripartite bodies such as the Permanent Committee for Social Consultation which is one of the organs of the Social and Economic Council. All these consultations covered the matters referred to in Article 5 of Convention No. 144. The consultation procedures were effective and were accepted by the majority of social partners. Only one employers' organization had expressed reservations as to the effectiveness of written communications. The Government was ready, however, to reconsider the procedures in consultation with the social partners.
- 136.** Some Government members (Czech Republic, Lebanon) highlighted that the existence of institutionalized bodies for tripartite consultation allowed them to envisage the ratification of Convention No. 144 in the near future. In this respect, the General Survey provided useful clarifications on a number of points.
- 137.** The Government member of Canada stated that most of the questions regarding the ILO were of direct interest for national law and practice both at the federal level and the level of governments of provinces and territories. Even though Canada had not ratified Convention No. 144, federal authorities as well as authorities of provinces and territories actively supported the principles of the Convention, and consultations with a view to ratifying this instrument were currently under way at all levels. These consultations showed the need for clarifying a certain number of points. In this respect, the General Survey shed light on several provisions of the Convention and the Recommendation. The overall appraisal of the difficulties and prospects of ratification of the Convention was well-timed, and the Government of Canada took note of the information according to which a number of federal states which had ratified Convention No. 144 were deemed to fulfil their obligations by undertaking consultations at the federal level.

Difficulties of and prospects for ratification

- 138.** The Employer members observed that Chapter 6 of the General Survey clearly showed that ratification of Convention No. 144 was essentially a question of respecting the principles of freedom of association. When these principles were respected, ratification was only a question of political will. Moreover, the Committee of Experts had indicated that the lack of legal provisions in this regard was not an obstacle in itself. As a practical matter, many governments who had not ratified Convention No. 144 appeared to be implementing the Convention in practice. Where ratifications had not occurred, the principal obstacles to ratification appeared to be choosing the most appropriate form of consultation; determining the representative status of employers' and workers' organizations; the transition to political pluralism and a market economy; and inadequate resources or financial restraints.

The most important observation from the present survey was that mistrust of tripartism was no longer a major obstacle. For these reasons, one could reasonably expect that almost all member States will have ratified the Convention when the next General Survey on it is prepared.

- 139.** The Worker members noted with satisfaction that the difficulties cited by States concerning ratification were not problems of principle, but rather were practical questions. Some governments said that they had considerable difficulty with consultation procedures in general and with administrative and financial matters. The Worker members noted that many of those countries nevertheless envisaged ratification of [Convention No. 144](#) in the near future and were therefore prepared to overcome the difficulties they were facing.
- 140.** The Worker member of Rwanda stated that tripartite consultations remained a pious hope in most African countries. In fact, in certain countries these kinds of consultations did not exist, while in others they remained superficial. It was abusive to pretend to hold tripartite consultations without having any appropriate mechanism or procedure.
- 141.** The Worker member of Brazil regretted that in practice the governments of Latin America balked at tripartite consultations. In these countries there were very few institutional structures compatible with [Convention No. 144](#). By way of example, while there did indeed exist a National Tripartite Council on Labour in Brazil, the Government had called it to meet only once since its creation in 1993, when [Convention No. 158](#) was denounced. Moreover, the system of trade union monopoly which prevailed in Brazil prevented tripartism from functioning on democratic and legitimate bases. Other Worker members (Argentina, Venezuela) regretted the lack of tripartite consultations in their countries, although bodies existed for this purpose. The Worker member from Pakistan felt that, if the Convention was well ratified by ILO member States, it was not adequately implemented in many countries, including his own. As for the ILO, it must make international financial institutions, such as the IMF or the World Bank, aware of the role of workers' organizations in implementing programmes of structural adjustment which these institutions imposed.
- 142.** The Worker member of the Republic of Korea recalled that his country ratified [Convention No. 144](#) in 1999. However, the tripartite committee was already set up in February 1998 at the request of the social partners in order to overcome the 1997 economic crisis. This tripartite committee, composed of permanent subcommittees, was inspired by the provisions of [Convention No. 144](#) regarding its composition and its mandate, which were not limited to international labour standards, but included all economic and social questions. The representative organizations must be autonomous in order to dialogue efficiently with the Government, and collusion between representatives of governments and employers during these discussions on employment conflicted with this idea. Referring to the practice of tripartite consultation in his country, the Worker member from the Netherlands referred to recent difficulties when the Government proposed to denounce a Convention and granted only a very short time for the social partners to reply.
- 143.** The Worker member of Japan underscored that [Convention No. 144](#), like all ILO standards, played an essential role in the improvement of living and working conditions. Special attention must be given to the social aspects of globalization, such as social safety nets, decent work and fundamental standards at work, which were the prerequisites for sustainable social growth. The governments of developing and industrialized countries should make full use of ILO standards to reach the two goals of economic growth and social progress. Unfortunately, approximately half the member States, including Japan, had not yet ratified the Convention. One could hope that, thanks to the discussions within this Committee, all governments, and especially those which had not ratified the Convention,

would be encouraged to implement in a concerted way procedures for effective consultations on ILO standards.

- 144.** The Worker member of India drew attention to the close link between difficulties encountered in implementing ILO Conventions and the social and economic development of the countries concerned. It was only by promoting economic and social development through respect for fundamental standards of the ILO that it would be possible to overcome serious problems of child labour and poverty, which a country such as his own faced. Any proposal to make international labour standards more flexible would only result in their being weakened and must be rejected. Social dialogue on all the questions set forth in [Convention No. 144](#) and [Recommendation No. 152](#) must be strengthened. All countries should be aware of the benefits for them of such dialogue.
- 145.** The Worker member of the Netherlands regretted that many countries, where there are functioning systems for tripartite consultation and social dialogue, had not ratified the Convention. When an objective analysis had concluded that there was no obstacle to ratification and that all necessary conditions had been met, non-ratification could only be attributed to a lack of political will. Consequently these countries should be asked to ratify the Convention rapidly.
- 146.** The Worker member of Sweden stated that there was a close link between a low rate of ratification of ILO Conventions and the lack of a national forum for tripartite consultation. Without such a forum, organizations had no means of pressure to engage in dialogue with the government on the desirability of ratifying ILO Conventions. Tripartism constituted the basis of ILO activities at the international level, and it would be logical to use this same model at the national level. Consequently, the ratification of [Convention No. 144](#) should become a constitutional obligation for member States, and a campaign in this regard would be welcomed.
- 147.** The Government member of the Czech Republic stated that, although her country had not yet ratified the Convention, in 1993 a consultative body was created where the public authorities who participate in ILO activities are represented, as well as the most representative organizations of employers and workers. The mandate of this body covered the questions set forth in Article 5 of the Convention. The national Parliament was in the process of examining a proposal for ratification of [Convention No. 144](#). The obstacles to ratification of the Convention were essentially political in nature and should soon be overcome. The Government believed that the obstacles to the ratification, which in the past were mainly of a political character, had been overcome and in a few months the Czech Republic would be able to announce to the ILO the ratification of Convention No. 144.
- 148.** The Government member of Switzerland stated that the performance of the Swiss economy was based in a large part on social dialogue, above all between employers and workers since the State and the public authorities played only a secondary role in this field. Nevertheless, for questions having to do with international labour standards, their preparation and their supervision, Switzerland has always resorted to tripartite dialogue. On 23 March 2000, both Houses of the Federal Parliament formally agreed that the Federal Council could ratify this Convention. The ratification instrument should be deposited during the special session of the United Nations General Assembly on the follow-up to the Copenhagen Social Summit at the end of this month. In addition, Switzerland was about to set up a national tripartite committee for ILO questions. Switzerland was in a learning phase and would be grateful to be able to count on the ILO's expertise. In this respect the Government intended to work with a representative of the ILO from the first meeting of the tripartite committee as well as during the following sessions.

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149. All the speakers welcomed the high number of ratifications of [Convention No. 144](#). The Committee hoped to see the number increase following this General Survey, and called on the Office to furnish the technical assistance necessary for this purpose.

D. Compliance with specific obligations

150. The Committee decided that, in examining individual cases relating to compliance by States with their obligations under or relating to international labour standards, it would apply the same working methods and criteria as last year, as amended or clarified in 1980 and 1987.
151. In applying those methods, the Committee decided, on the proposal of the Worker members, supported by the Employer members, to invite all governments concerned by the comments in paragraphs 82 (failure to supply report for two or more years on the application of ratified Conventions), 89 (failure to supply first reports on the application of ratified Conventions), 93 (failure to supply information in reply to comments made by the Committee of Experts), 119 (failure to submit instruments to the competent authority), and 123 (failure to supply reports for the past five years on unratified Conventions and on Recommendations) of the Committee of Experts' report to supply information to the Committee in a half-day sitting on the first Monday devoted to those cases. The Committee considered that this innovation proved positive and should be repeated next year.

Submission of Conventions and Recommendations to the competent authorities

152. In accordance with its terms of reference, the Committee considered the manner in which effect is given to article 19, paragraphs 5 to 7, of the ILO Constitution. These provisions require 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 from the report of the Committee of Experts (paragraph 113) that considerable efforts to fulfil the submission obligation had been made in certain States, namely: Croatia, Liberia and Zimbabwe.
154. In addition, the Committee was informed by various other States of measures taken to bring the instruments before the competent national authorities. It welcomed the progress achieved and expressed the hope that there would be further improvements in States that still experience difficulties in complying with their obligations.

Failure to submit

155. The Committee noted with regret that no indication was available that steps had been taken in accordance with article 19 of the Constitution to submit the instruments adopted between 1992 and 1997 by the 79th to 85th Sessions of the Conference to the competent authorities, in the cases of Afghanistan, Belize, Cambodia, Cameroon, Central African Republic, Comoros, Congo, Guinea-Bissau, Haiti, Honduras, Kyrgyzstan, Mali, Saint Lucia, Sao Tome and Principe, Senegal, Seychelles, Sierra Leone, Solomon Islands, Somalia, Syrian Arab Republic and Yemen.

Supply of reports on ratified Conventions

156. In Part B of its report (General questions relating to international labour standards), the Committee has considered the fulfilment by States of their obligation to report on the application of ratified Conventions. By the date of the 1999 meeting of the Committee of Experts, the percentage of reports received was 61.4 per cent, compared with 62.1 per cent for the 1998 meeting. Since then, further reports have been received, bringing the figure to 71.7 per cent (as compared with 71.4 per cent in June 1998, and 74.6 per cent in June 1997). In 1999, the Committee of Experts noted that 60.3 per cent of the reports on Conventions for which information on practical application was requested contained such information, compared with 66.4 per cent in 1998, and 84.3 per cent in 1997. The Committee emphasizes the importance of sending practical information, without which it is impossible to know if a Convention is actually being applied. The Committee joins the Committee of Experts in its repeated appeals to governments to make every effort to include the necessary information in future reports.

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

157. The Committee noted with regret that no reports on ratified Conventions had been supplied for two years or more by the following States: Afghanistan, Armenia, Bosnia and Herzegovina, Burkina Faso, Comoros, Democratic Republic of the Congo, Djibouti, Equatorial Guinea, Georgia, Sao Tome and Principe, Sierra Leone, Solomon Islands, Somalia, United Republic of Tanzania (Zanzibar), The former Yugoslav Republic of Macedonia, and Uzbekistan.

158. The Committee also noted with regret that no first reports due on ratified Conventions had been supplied by the following countries: since 1992, Liberia ([Convention No. 133](#)); since 1995, Armenia ([Convention No. 111](#)), Kyrgyzstan (Convention No. 133); since 1996, Armenia (Conventions [Nos. 100, 122, 135, 151](#)), Grenada (Convention No. 100), Uzbekistan (Conventions [Nos. 47, 52, 103, 122](#)); and since 1998, Armenia (Convention [No. 174](#)), Equatorial Guinea (Conventions [Nos. 68, 92](#)), Georgia (Conventions [Nos. 105, 138](#)), Mongolia (Convention No. 135) and Uzbekistan (Conventions [Nos. 29, 100](#)). It stressed the special importance of first reports on which the Committee of Experts bases its first evaluation of compliance with ratified Conventions.

159. In this year's report, the Committee of Experts noted that 46 governments had not communicated replies to most or any of the observations and direct requests relating to Conventions on which reports were due for examination this year, involving a total of 411 cases (compared with 353 cases in December 1998). The Committee was informed that, since the meeting of the Committee of Experts, 19 of the governments concerned had sent replies, which would be examined by the Committee of Experts at its next session.

160. The Committee noted with regret 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 1999 from the following countries: Afghanistan, Antigua and Barbuda, Bosnia and Herzegovina, Burkina Faso, Central African Republic, Comoros, Democratic Republic of the Congo, Denmark (Faeroe Islands), Djibouti, Equatorial Guinea, Fiji, France (French Guiana, St. Pierre and Miquelon), Gabon, Guinea-Bissau, Islamic Republic of Iran, Jamaica, Kenya, Kyrgyzstan, Libyan Arab Jamahiriya, Malaysia, Netherlands (Aruba), Nigeria, Saint Lucia, Sao Tome and Principe, Sierra Leone, Slovakia, Solomon Islands, Swaziland, United Republic of Tanzania, The former Yugoslav Republic of Macedonia, Trinidad and Tobago, Uganda and Yemen.

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- 161.** The Committee noted the explanations provided by the governments of the following countries concerning difficulties encountered in discharging their obligations: Belize, Bosnia and Herzegovina, Burkina Faso, Central African Republic, Denmark (Faeroe Islands), Djibouti, France (French Guiana, St. Pierre and Miquelon), Guinea-Bissau, Islamic Republic of Iran, Jamaica, Kenya, Libyan Arab Jamahiriya, Malaysia, Netherlands (Aruba), Nigeria, Sao Tome and Principe, Sierra Leone, Slovakia, Swaziland, United Republic of Tanzania, Trinidad and Tobago, Uganda and Yemen.
- 162.** The Committee stressed that the obligation to transmit reports is the basis of the supervisory system. It requests the Director-General to adopt all possible measures to improve the situation and solve the problems referred to above as quickly as possible. It expressed the hope that the multidisciplinary teams would give all due attention in their work in the field to standards-related issues and in particular to the fulfilment of standards-related obligations. The Committee also bore in mind the new reporting arrangements approved by the Governing Body in November 1993, which came into operation from 1995.

Application of ratified Conventions

- 163.** The Committee noted with particular interest the steps taken by a number of governments to ensure compliance with ratified Conventions. The Committee of Experts listed in paragraph 99 of its report new cases in which governments had made changes to their law and practice following comments it had made as to the degree of conformity of national legislation or practice with the provisions of a ratified Convention. There were 27 such cases, relating to 23 countries; 2,230 cases of progress have been recorded since the Committee of Experts began listing them in 1964. These results are tangible proof of the effectiveness of the supervisory system.
- 164.** At its present session, the Conference Committee was informed of other instances in which measures had recently been or were about to be taken by governments with a view to ensuring the implementation of ratified Conventions. While it is for the Committee of Experts to examine these measures, the present Committee welcomes them as fresh evidence of the efforts made by governments to comply with their international obligations and to act upon the comments of the supervisory bodies.
- 165.** The Committee thought it appropriate to draw the attention of the Conference to various important cases which it had to consider.

Cases of progress

- 166.** The Committee noted with satisfaction that in a number of cases – including many involving basic human rights – governments have introduced changes in their law and practice in order to eliminate divergences previously discussed by the Committee. It considers highlighting these cases a positive approach towards influencing governments to respond to comments of the supervisory bodies. In this respect, it refers to the report of the Committee of Experts and the discussion of individual cases which appears in Part Two of this report.

Special cases

- 167.** The Committee considered it appropriate to draw the attention of the Conference to its discussions of the cases mentioned in the following paragraphs, a full record of which appears in Part Two of this report.

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- 168.** As regards the application by Sudan of the Forced Labour Convention, 1930 (No. 29), the Committee noted the information supplied by the Government representatives, including information on recent measures to release persons who had been abducted, and the detailed discussion which took place thereafter. The Committee noted that this was a particularly serious and longstanding case affecting fundamental human rights, as witnessed by its inclusion in a special paragraph in 1997 and 1998, and the fact that comments had been received from workers' organizations. The Committee noted the positive measures taken by the Government, including the establishment of the Committee for the Eradication of the Abduction of Women and Children. Nevertheless, it expressed its deep concern at continuing reports of abductions and slavery and urged the Government to pursue its efforts with vigour. It understood that the situation was exacerbated by the continuing civil conflict and noted the measures taken to reach a settlement. The Committee expressed the firm hope that the Government's next report to the Committee of Experts would indicate that measures had been taken, including punishment of those responsible, and that concrete results had been obtained, so that the full application of the Convention, in law and in practice, could be noted in the very near future. The Committee strongly recommended that a direct contacts mission be undertaken by the Office to obtain full factual information and to examine effective assistance to the Government in this respect. The Committee regretted that the Government had not accepted the proposal to invite a direct contacts mission.
- 169.** As regards the application by Cameroon of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), the Committee took note of the oral statement made by the Government representative and the discussion that followed. The Committee recalled that this case had been discussed on numerous occasions over the last two decades. The Committee recalled with great concern that for many years the Committee of Experts had been formulating comments on the discrepancies between national legislation and the requirements of the Convention. In particular, it stressed the need to delete the imposition of previous authorizations for the constitution of trade unions of public servants and for joining foreign occupational organizations. It also urged the Government to repeal provisions allowing for the prosecution of persons forming trade unions not yet registered who would behave as if they were registered. The present Committee also noted that several complaints had been examined by the Committee on Freedom of Association concerning interference by the public authority in union matters and anti-union reprisals. The Committee deeply regretted once again that no progress had been achieved in the application of the Convention. It strongly urged the Government once again to remove without delay the obstacles to full freedom of association contained in its law. In this respect, it firmly asked the Government to submit draft bills to Parliament and to the ILO before the next session of the Committee of Experts. The Committee recalled that technical assistance from the ILO with the help of the multidisciplinary team present in Yaoundé was at the Government's disposal. It welcomed the invitation of the Minister to send a mission on the spot in Cameroon. The Committee expressed the firm hope that the next report due this year would describe measures actually taken to ensure full compliance in law with this Convention.
- 170.** As regards the application by Venezuela of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), the Committee took note of the oral information supplied by the Government representative and of the discussion which took place. Recalling with great concern that, in the past years, the Committee on Freedom of Association had examined several complaints presented by employers' and workers' organizations and that this case had been discussed on a number of occasions by the present Committee without any positive results, the Committee deplored having to address this question once again. With regard to the serious discrepancies between the national legislation and the requirements of the Convention, the present Committee, in accordance

with the Committee of Experts, urged the Government to urgently modify its legislation to ensure that workers and employers were able to set up organizations free from interference from the public authorities and to elect their representatives in full freedom. It also insisted on the need to delete the long and detailed list of duties and aims imposed on workers' and employers' organizations. In addition, the Committee expressed the firm hope that the decrees recently adopted would not impair the rights of workers' and employers' organizations for furthering and defending the interests of their members. It strongly urged the public authorities to refrain from any undue interference which would restrict these rights or impede their lawful exercise. The Committee expressed the firm hope that the next report of the Government to the Committee of Experts would reflect concrete and positive developments and urged the Government to report in detail on all the points raised by the Committee of Experts.

171. The Committee trusts that the governments concerned will take all measures necessary to correct the deficiencies noted and invites them to consider appropriate forms of ILO assistance, including direct contacts, to ensure that real progress is achieved by next year in the observance of their obligations under the ILO Constitution and the Conventions in question.

Continued failure to implement

172. The Committee recalls 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.
173. The governments of the countries to which reference is made in paragraphs 168 to 170 are invited to supply the relevant reports and information to enable the Committee to follow up the abovementioned matters at the next session of the Conference.

Supply of reports on unratified Conventions and on Recommendations

174. The Committee noted that 136 of the 258 article 19 reports requested on the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), and the Tripartite Consultation (Activities of the International Labour Organization) Recommendation 1976 (No. 152), had been received at the time of the Committee of Experts' meeting, and a further five since, making 55 per cent in all.
175. The Committee noted with regret that over the past five years none of the reports on unratified Conventions and on Recommendations requested under article 19 of the Constitution had been supplied by Afghanistan, Algeria, Armenia, Bosnia and Herzegovina, Burundi, Comoros, Djibouti, Equatorial Guinea, Fiji, Georgia, Grenada, Haiti, Liberia, Libyan Arab Jamahiriya, Malawi, Republic of Moldova, Nigeria, Rwanda, Saint Lucia, Solomon Islands, Somalia, The former Yugoslav Republic of Macedonia and Turkmenistan.

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

176. Once again this year, the Committee did not have to apply the criterion "The Government has failed 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 ILO under articles 19 and 22 have been communicated”.

Participation in the work of the Committee

- 177.** The Committee wished to express its gratitude to the 69 governments which collaborated by providing information on the situation in their countries and participating in the discussions of their individual cases.
- 178.** The Committee regretted that, despite the invitations, the governments of the following States failed to take part in the discussions concerning their countries’ fulfilment of their constitutional obligations to report: Congo, Gabon, Republic of Moldova, Mongolia and The former Yugoslav Republic of Macedonia. It decided to mention the cases of these States in the appropriate paragraphs of its report and to inform them in accordance with the usual practice.
- 179.** The Committee noted with regret that the governments of the States which were not represented at the Conference, namely Afghanistan, Antigua and Barbuda, Armenia, Comoros, Democratic Republic of the Congo, Equatorial Guinea, Fiji, Grenada, Kyrgyzstan, Saint Lucia, Solomon Islands, Somalia, Turkmenistan and Uzbekistan, were unable to participate in the Committee’s examination of the cases relating to them. It decided to mention these countries in the appropriate paragraphs of this report and to inform the governments, in accordance with the usual practice.

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- 180.** The Committee is conscious of its unique role in entertaining frank and positive dialogue in a tripartite context, in the single-minded pursuit of helping member States make progress in the implementation of their standards-related obligations. There were important questions of principle and a number of complex and serious cases to be examined in the Committee this year. This occurred in a spirit of constructiveness and good faith. The Committee welcomes all of this, for the protection of freedom, dignity and the improvement of living standards – life itself – for men, women and children is the underlying and unforgettable purpose behind the work of the supervisory bodies. The discussions in the Committee reflected the profound changes which are taking place in the world and their repercussions on the world of work. The Committee hopes that it has made a contribution to improving living and working conditions so that decent work will be within the reach of all the women and men in the world.

Geneva, 13 June 2000.

(Signed) P. van der Heijden,
Chairperson.

J. Misner,
Reporter.