

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

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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 210 members (117 Government members, 15 Employer members and 78 Worker members). It also included 10 Government deputy members, 60 Employer deputy members, and 132 Worker deputy members.¹ In addition, 38 international non-governmental organizations were represented by observers.
2. The Committee elected its Officers as follows:

<i>Chairperson:</i>	Mr. Michel Thierry (Government member, France)
<i>Vice Chairpersons:</i>	Mr. Alfred Wisskirchen (Employer member, Germany); and Mr. Luc Cortebeeck (Worker member, Belgium)
<i>Reporter:</i>	Mr. Sergio Paixao Pardo (Government member, Brazil)
3. The Committee held 16 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 Dock Work Convention (No. 137) and Recommendation (No. 145), 1973.² The Committee was also called on by the Governing Body to hold a special sitting concerning the application by Myanmar of the Forced Labour Convention, 1930 (No. 29), in application of the resolution adopted by the Conference in 2000.³

¹ For changes in the composition of the Committee, refer to reports of the Selection Committee, *Provisional Records Nos. 4-1 to 4-1L*.

² Report III to the International Labour Conference – **Part 1A**: Report of the Committee of Experts on the Application of Conventions and Recommendations; **Part 1B**: Dock Work: Social repercussions of new methods of cargo handling.

³ ILC, 88th Session (2000), *Provisional Record No. 6-1 to 5*

Work of the Committee

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. In this part of the discussion, reference was made to Part One of the Report of the Committee of Experts on the Application of Conventions and Recommendations. The second part of the general discussion dealt with the General Survey on dock work carried out by the Committee of Experts. A special sitting concerning the case of Myanmar was held. During its second week, the Committee considered various individual cases relating to the application of ratified Conventions or compliance with obligations to submit Conventions and Recommendations to the competent national authorities and to supply reports on the application of ratified Conventions.
6. The examination of individual cases, which is the most 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. As usual, the Committee also referred to its discussions in previous years, comments received from employers' and workers' organizations and, where appropriate, reports of other supervisory bodies of the ILO and other international organizations. Due to time restrictions, as usual the Committee had to make a selection among the Committee of Experts' observations of a limited number of individual cases to discuss. The Committee trusts that all those governments of countries who were the subject of individual discussion will strive to take the measures required to fulfil the obligations they have undertaken in relation to standards. With respect to the discussions of selected individual cases on the application of standards, a summary of the information supplied by governments, the discussions in the present Committee and any conclusions it has drawn are set out in Parts Two and Three of this report.
7. The Worker members submitted a draft list of cases, following discussion within the Workers' group. It was always difficult to select individual cases for discussion given the multitude of cases of failure or difficulties of application of ratified Conventions in all regions of the world and the time limitations. In future it would be desirable to be able to discuss more cases than the 24 envisaged for this Conference. In response to the call by Government members for greater transparency in the elaboration of the list, they recalled the criteria used for selecting the cases for discussion. First of all, there were the footnotes appearing in the report of the Committee of Experts requesting certain governments to provide full particulars to the Conference. These were normally found at the bottom of the text and this should be the continued practice so that the Workers would be given a clear indication of the Committee of Experts' requests. In this respect, the Committee of Experts explicitly requested the Conference Committee to discuss this case. This year there were three footnotes, concerning Burma (Myanmar) on [Convention No. 29](#) (a special sitting was devoted to the discussion of this case), and concerning Paraguay for [Conventions Nos. 79](#) and [90](#). Other criteria used to select the cases were the discussions and conclusions of previous sessions of the Conference Committee, with particular reference to cases included in a special paragraph of the report of the Committee; the nature of the observations of the Committee of Experts; the quality and extent of the replies provided by governments and reproduced in the report of the Committee; or, on the contrary, the absence of a reply by the government; the comments received from organizations of workers and employers at the national and international levels; the reports of other ILO supervisory bodies and other international organizations; recent developments at the national level; and the statements of the Worker members when adopting the list of individual cases the previous year. The search for a balance between regions and types of Conventions was also taken into consideration. While fundamental standards, particularly those concerning freedom of

association and the right to collective bargaining, always rightly received a lot of attention, it was also important to discuss the problems of application and developments concerning the so-called technical Conventions. The high number this year of the cases on the list relating to the application of [Conventions Nos. 87 and 98](#) was explained by the fact that during this period of rapid globalization, trade union rights were increasingly affected and violations of the fundamental rights of trade unionists became more numerous. Moreover, the increase in the number of ratifications of fundamental Conventions evidently had consequences for the supervision of the application of these Conventions.

8. The Worker members drew to the attention of the Committee of Experts, the Office, the governments concerned and this Committee that in the following eight individual cases, they wished to come back to them at the appropriate time unless positive developments had been noted, and they asked the Committee of Experts to include them in their report for 2003: *Argentina*, in regard to the Freedom of Association and Protection of the Right to Organise Convention, 1948 ([No. 87](#)), and the Protection of Wages Convention, 1949 ([No. 95](#)). The economic and social crisis in this country was affecting thousands of workers who, with or without employment, had expressed their dissatisfaction and discontent. It was recognized that negotiations were under way and the Argentinian organizations maintained the hope of finding a solution. The very disturbing cases of sanctions and repression of trade union activity constituted, in particular, very grave precedents. *Brazil*, in regard to the Discrimination (Employment and Occupation) Convention, 1958 ([No. 111](#)), which had been discussed on several occasions concerning various issues relating to gender and race discrimination in employment, including wage discrimination. They would be particularly vigilant in respect of this situation. *Burma (Myanmar)* in regard to the Freedom of Association and Protection of the Right to Organise Convention, 1948 ([No. 87](#)), taking into account difficult discussions last year with the Government concerning the manifest violations of freedom of association in this country. The conclusions of the Committee had been placed in a special paragraph and the case also had been mentioned as a case of continued failure to implement. The Worker members indicated that they would come back to it as soon as possible. *Cameroon* in regard to the Freedom of Association and Protection of the Right to Organise Convention, 1948 ([No. 87](#)), taking into account the conclusions of the Committee in 2001, which had been placed in a special paragraph. This mostly related to the non-application of Convention No. 87 at the legislative level. Changes to the legislation were under way, but problems still remained in different areas so the situation would be followed closely. *Islamic Republic of Iran* for the Discrimination (Employment and Occupation) Convention, 1958 ([No. 111](#)), taking into account the many years of discussion of the serious problems of discrimination, of which women were the principal victims. The Worker members strongly reaffirmed their support to the Iranian people. The fact that the case was not being examined this year did not mean that the situation had been resolved. They were awaiting the report of the technical assistance mission that had visited the Islamic Republic of Iran in 2002 to be submitted for examination to the Committee of Experts and its observations on any developments. They would certainly come back to this case at one of the next sessions of the Committee. *Japan* in regard to the Forced Labour Convention, 1930 ([No. 29](#)), taking into account the grave situation that took place several decades ago and for which there had never been a satisfactory solution for all the parties involved. The Worker members deplored the fact that the Government had still not taken the necessary measures. Together with the Employer members, they undertook to include the application of Convention No. 29 in Japan on the agenda of the Committee the next year. *Kenya* in regard to the Right to Organise and Collective Bargaining Convention, 1949 ([No. 98](#)). Last year, the Worker members had indicated during the presentation of the list that they wished to come back to the problems of Kenya concerning the right to collective bargaining if the situation did not improve. The report of the Committee of Experts noted this year that a working group on the revision of the legislation concerning

the collective bargaining of public employees had been established, and that progress had been made in respect of the registration of trade union organizations. The Worker members indicated that they remained vigilant and that they would come back to this case at the appropriate time. *Norway* in regard to the Radiation Protection Convention, 1960 (No. 115). The Worker members expressed the desire to establish a dialogue with the Government on the subject of the protection of workers against radiation. The fact that they decided not to have this discussion this year did not mean that they considered the violations as not being serious. They strongly hoped that they would not have to include this case on the list next year, but would do so if the situation did not change rapidly and positively.

9. The Worker members emphasized the importance of real collaboration of representatives of governments included on the list. The selection of the cases to be discussed was very difficult and it would be regrettable not to discuss certain cases because the governments concerned were absent. They also requested the representatives of the governments to make the effort to limit their speaking time so as to permit dialogue with all the governments whose cases were included on the list.
10. The Employer members stated that, as in previous years, they were not satisfied with the list of individual cases to be examined by the Conference Committee. The designation of 24 cases for examination was too many for this, an election year for the Governing Body. Experience had shown that, to discuss all these cases, night sessions of the Committee would be required. Since only a few members attended night sessions, this would be detrimental to the work and the image of the Committee. Recalling that the Committee was a supervisory body for all international labour standards, they regretted that many of the cases concerned [Conventions Nos. 87 and 98](#) on freedom of association and collective bargaining. Moreover, freedom of association already had a specific committee. The cases contained on the list should reflect the variety of international labour standards.
11. With reference to the case concerning the application by Japan of [Convention No. 29](#), the Employer members said that if there were an agreement among the Japanese tripartite constituents for the examination of the case by the Conference Committee in 2003, they could support it.
12. The Employer members regretted that the Committee had no specific criteria for the choice of individual cases for examination. While the Worker members had indicated a number of sensible and useful criteria, which had provided the basis for their selection of cases, very different lists could also have been made on the basis of the same criteria. The Employer members were convinced that the criterion of whether member States complied with their obligations arising out of the ratification of a Convention was a strictly legal matter. In contrast, the question of selecting individual cases for examination was in practice a very political issue. The only valid criterion for the selection of cases was the seriousness and persistence of cases of non-compliance with ratified Conventions. However, this criterion was difficult to apply in practice. For this reason, it was necessary to set out negative or auxiliary criteria. One important criterion was to avoid the persistent examination of the same cases. This should only be justified where the case was demonstrated to be very serious. Further, the number of cases to be examined should be limited to 20. Finally, the work of the Committee should be subjected to strict time management. This would form part of the discipline that was necessary to permit the examination of all the cases on the list.
13. The Government member of the Republic of Korea duly took note of the comments made by the spokespersons of the Workers' and Employers' groups concerning the selection of individual cases.

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14. The Government member of Japan noted that the case on the application of the Forced Labour Convention, 1929 (No. 29), by Japan was not included in the list of cases to be examined in the Conference Committee this year. His Government would submit timely information on this case for the next session of the Committee of Experts. He hoped that the case would be further reviewed carefully by the Committee of Experts in the light of the communications from his Government and from the All Japan Shipbuilding and Engineering Union. Recalling that his Government's position on this matter had been expressed on various occasions, he called on the Committee not to prejudice the future course of discussions on the case and made clear that there was no agreement among the three parties of Japan to revisit this case next year as was referred to by the previous speakers.
 15. The Government member of Venezuela expressed his reservations concerning the inclusion of the application of [Convention No. 87](#) by his Government in the list of individual cases.
 16. A Worker member of France stated that reducing the number of individual cases to be examined would diminish the role of the Conference Committee. Indeed, it would be better to increase the number of individual cases to be examined by the Committee. This could be achieved by improving the Committee's methods of work. As to the case of Japan, he noted that the victims were disappearing with the passing of time and thus deplored the fact that a solution had not yet been found to this long standing problem.
 17. Concerning the general discussion, the Employer members stressed that the Conference Committee should pay attention to new issues, which deserved to be discussed. This could include an assessment of past events. On some occasions the suggestion had been made to omit or shorten substantially the general discussion; however, the Employer members did not support this view. It was always reasonable to discuss the streamlining of the general discussion, but its objective needed to be clarified. The general discussion should be an opportunity to discuss important general problems related to the supervisory system, in particular regarding its objectives, purposes, possibilities, limits and areas for improvement. It was inappropriate and even misleading if such general questions were discussed in the framework of an individual case concerning a particular member State. The report of the Committee of Experts, which is an important but not exclusive basis for discussions in the Conference Committee, contained a general part. If the Conference Committee did away with a general discussion, it would deprive itself of any possibility to address in a thorough and fruitful manner the issues of general importance raised in that part of the report. This did not mean that the general discussion should be used for detailed descriptions of national situations, which instead should be raised in individual cases. Consequently, the Employer members were of the opinion that although it was necessary to rein in costs, the savings would not justify a shortening of the essential general discussion. Furthermore, it was a question of balance between the Conference Committee and the Committee of Experts, which should not be confused with the question of whether working methods, in particular in technical areas, could and should be improved.
 18. The Government member of the United States, speaking on behalf of the Industrialized Market Economy Countries (IMEC) group, stated that the general discussion should be focused on emerging issues of high importance and that all interventions should be limited to the shortest possible time. The so-called "automatic" cases could be considered in the first week of the Conference, since governments already had notice of the report of the Committee of Experts, which was available in March, thereby giving them adequate preparation time. The Conference Committee should reach a tripartite consensus on specific criteria for the selection of the individual country cases, keeping in mind the need to ensure the criteria were fair and equitable and applied in an appropriate manner. The

Worker members should be thanked for identifying their criteria, which could perhaps be a starting point for such a discussion. The list of cases should be balanced and selected not only from fundamental and priority Conventions, or cases arising out of special procedures, but also groups of cases concerning emerging technical issues involving a number of countries. Time should be allotted so that a technical, pragmatic, solution-oriented discussion was possible on those groups of technical cases. The IMEC group believed that governments needed to be fully prepared to participate in the discussion of their cases. To that end, the Committee should determine the list as soon as possible, even exploring constitutionally acceptable means of determining the list by the beginning of the first week of the Conference. In order to make the most efficient use of the Committee's time during the discussion of cases, the Office should invite each government identified on the list of cases to a short meeting as soon as possible after the adoption of the list to brief them on the procedures for considering the case and to encourage them to sign up early. In drafting the conclusions to each case, the Chairperson should ensure that they clearly reflected the discussion. It might therefore be advisable to adjourn briefly each case before adopting the conclusions so that the Chairperson had adequate time to reflect on the conclusions in the Committee room, but with no involvement by the Government, Employer or Worker members.

- 19.** The speaker added on behalf of the IMEC group that although the Governing Body, the Committee of Experts and the Committee on Freedom of Association were undertaking reviews of their working methods, the Conference Committee had so far not done so. The IMEC group suggested that the Office begin consultations with the groups on the modalities of such a review and commence the compilation of an agenda of issues to be addressed. A document reflecting the consultation should be presented to the Conference Committee next year for its consideration during the general discussion. This would allow the Committee to determine whether a working party or some other mechanism should be established to continue the review. An important part of the review would be to assess Office resource issues, and inputs would be welcome on ways to save time and money without sacrificing efficiency and effectiveness.
- 20.** The Government members of Ethiopia, Italy, Japan, Mexico, and Norway, speaking on behalf of the five Nordic Government members of the Committee (Denmark, Finland, Iceland, Norway and Sweden), supported the statement made on behalf of the IMEC group, emphasizing the importance of the adoption of specific criteria for the selection of individual cases. The Government member of Japan also highlighted that the objective of the Conference Committee was to analyse the current situation with regard to labour law and its implementation in a specific country, and to make recommendations as to how to improve the situation. The Conference Committee should therefore establish such criteria as soon as possible in order to improve its effectiveness and efficiency and to ensure that its work was not used for political purposes. The Government member of Norway noted that the Nordic countries had, in their intervention last year, especially commented on the work of the Conference Committee, stating that the overarching goal of any review of the standards-related activities should be to increase their effectiveness, visibility and transparency while not reducing the level of protection they afforded workers. He regretted, however, that this appeal had produced very few results and expressed the firm hope of seeing the necessary improvements at next year's Conference.
- 21.** The Government member of Mexico stated that the IMEC position reflected, in general, the position adopted by her country and the Latin American and Caribbean Group (GRULAC) in recent years, in respect to the review of standards-related activities undertaken by the Governing Body. She indicated the need for the ILO to commence consultations with regional groups related to the possible revision of the methods of work of the Committee and to proceed to establish a list of all subjects to be reviewed. Finally,

she suggested that the results of these consultations should be presented next year to this Committee for general discussion. The Government delegate of Guatemala supported the proposal by the IMEC group concerning the revision of the working methods of the Committee. Many elements of the IMEC proposal coincided with those of her delegation as well as others of GRULAC and were put forth in the revision of ILO standard-setting activities initiated in the Governing Body. Last year her delegation requested the Committee to initiate its own process of revision whose objective should be to increase transparency and objectivity and the strengthening of mechanisms. She also drew attention to the importance of cooperation with a view to improving the application of standards. She requested the Committee to take a decision to initiate a consultation process and to include this item on the Committee's agenda next year.

- 22.** The Government member of Ethiopia associated himself with previous speakers who had mentioned that the method for selection of individual cases lacked transparency and was not balanced. The time allotted to selected countries in order to respond to their individual cases did not allow them to prepare and participate fully in the discussion. The supervisory procedures were too cumbersome and might require a country to respond to different bodies such as the Committee on Freedom of Association and the Committee on the Application of Standards with respect to the same issue. Given the constraints that many developing countries encountered, such a process was time-consuming and could affect the fulfilment of their reporting obligations. Therefore, a tripartite consensus should be reached on the selection criteria with a view to ensuring impartiality and equity.
- 23.** The Government member of Germany, referring to the question of the extent of the general discussion, recalled that the General Report covered only 9 per cent of the whole report of the Committee of Experts and he would be happy to see this proportion of the time allotted to the Committee being attributed to the discussion of the general part of the report.
- 24.** A Worker member of France welcomed the decision not to abolish the published minutes of the session, which were of great importance. With respect to paragraphs 135-138 concerning the problems and special cases, the criterion of failure to submit under article 19 of the Constitution for seven consecutive years was perhaps too long and too rigid and this criterion could perhaps be revised. The continued failure for several decades to eliminate serious problems in the application of ratified Conventions should be given more emphasis. He suggested that this type of failure should be considered as a reason for inclusion among the automatic cases.
- 25.** The Employer members referred to some points raised by the Government member of the United States who had spoken on behalf of the IMEC group. As to the view that the general discussion needed to be shortened, the Employer members wondered what the arguments were for this position. No specific argument had been presented in this respect, while the Employer members had put forward arguments on why it was essential to have a substantial general discussion. The Employer members supported in principle the views expressed by the IMEC group regarding the criteria for the establishment of the list of individual cases to be examined by this Committee. Again, however, no specific criteria for the selection of cases had been proposed. With regard to the request of the IMEC group for the preparation of a document on possible changes in the working methods of this Committee, the Employer members considered that a distinction should be made between two types of working methods. Those of a technical nature could already be discussed this year. Any Conference Committee could decide on its own methods of work as long as there were no binding regulations in this respect in the Standing Orders of the Conference. With regard to the working methods in a broader sense, which included improvements in the supervisory mechanism and the reporting system, modifications would have to be agreed in other forums such as the Governing Body, within which ongoing discussions

were taking place on this subject. Although this Committee could indicate its point of view, this matter did not fall under its competence. Turning to the position of the Government member of Germany, who had relied on a mathematical consideration in favour of a shorter general discussion, his views entailed two errors and the Employers believed that the volume of the general part of the report of the Committee of Experts should be compared to the number of individual cases actually examined by this Committee. If these two elements were compared, the duration of the general discussion in relation to other issues discussed in this Committee appeared to be balanced.

26. The Worker members indicated that they were ready to look for ways to improve the methods of work. The current system offered certain guarantees, which should be maintained, and proposed changes should be discussed within a tripartite framework.
27. In concluding the discussion on its methods of work, the Committee agreed to hold an informal exploratory meeting, attended by its Officers and Government members representing the various regions and to assess possible areas for change in the methods of work of the Committee and to gather proposals with a view to a discussion on this matter in 2003.
28. The Chairperson of the Committee reported on the informal exploratory meeting of the members of the Committee on the Application of Standards on the methods of work and the work programme of the Committee. Following the statement by the Government member of the United States in the name of the IMEC member States, supported by a certain number of other Government members, the Chairperson of the Committee had proposed that the officers of the Committee and the interested Government members organize an informal exploratory meeting on the examination of the work programme and the methods of work of the Committee. This meeting had taken place on Friday, 7 June. With regard to the programme and methods of work of the Committee, two aspects had been addressed: the manner in which to proceed with their examination and the objective of the examination itself. The ultimate goal of the examination was to strengthen the role of the Committee by improving the efficiency and transparency of its function. In relation to the first aspect, the meeting highlighted the following points: the importance of the tripartite character of this examination; the organization of consultations by the Office with a view to preparing a discussion on this issue during the next session of the Committee; and the informal character of these consultations, which should be as open as possible. A number of questions which could be examined had emerged from the statements of the members of the Committee during the discussion and the informal meeting. These statements had to be placed in the context of the previous discussions in the Committee and the Governing Body concerning consideration of possible improvements in the standards-related activities. The list of these questions was given below. However, during the exploratory meeting, it was stressed that a clear distinction should be made between the questions falling under the competence of the Committee and those which were within the purview of the Conference or the Governing Body. Bearing in mind this distinction, the future examination should cover the broadest number of questions possible. At this stage, the following questions could be mentioned:
 - the material organization of the Committee's work: production of the records of proceedings and the length of statements;
 - the work programme of the Committee: the objective was to rationalize the discussions in the Committee, particularly during the first week; to this end, it would be desirable to examine the following questions: (a) to separate the adoption of the list of automatic cases from that of the list of non-automatic cases, in order to allow the first list to be adopted earlier; (b) the possibility of adopting the list of non-

automatic cases as early as possible in the first week, in order to give the governments concerned more time for preparation; (c) the possibility of having the discussion on the automatic cases in the first week; (d) the possibility of fixing in advance a precise moment for the discussion of the General Survey;

- treatment of non-automatic cases: (a) determination of criteria for establishing the list of non-automatic cases; and (b) the method followed for drafting and adopting the conclusions of the Committee.

29. He stated that in regard to the follow-up of the informal meeting, it was suggested that the Office launch consultations. These consultations could take place with the Employers' group, the Workers' group and each regional group of governments on the occasion of the consultations which were held before each session of the Governing Body concerning possible improvements in the standards-related activities. The content of these consultations could then be presented in a synthetic document prepared by the Office, which would be submitted to the Committee at its next session for its general discussion.

B. General questions relating to international labour standards

General aspects of the supervisory procedures

30. The Committee noted the introduction by the representative of the Secretary-General concerning the mandate of the Committee, its methods of work, questions concerning the application of standards, information on the standards policy, constitutional and other procedures including the special procedure for freedom of association, and the promotion of standards and related technical assistance. The Secretary-General informed the Committee that the number of ratifications registered as of 27 May 2002 was 7,030, and that since 31 May 2001, 132 new ratifications had been registered. Almost half of these new ratifications were of the Worst Forms of Child Labour Convention, 1999 (No. 182). Pointing to the success of the ratification campaign, he noted that 43 per cent of all member States have ratified all of the fundamental Conventions. He also announced that the Maternity Protection Convention, 2000 (No. 183), entered into force on 7 February 2002; that the Seafarers' Hours of Work and Manning of Ships Convention, 1996 (No. 180), will enter into force on 8 August 2002; and that the 1996 Protocol to the Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147) will enter into force on 10 January 2003. In addition to providing the technical information, the representative of the Secretary-General spoke of the various challenges and opportunities facing the Committee as it undertook once again the responsibility of trying to ensure the application of international labour standards in law and practice through tripartite dialogue at the international level. Pointing to the need to improve the effectiveness and the impact of the supervisory system, he highlighted the importance of the engagement of the social partners and member States and the importance of building on the successful history of the Committee.

31. The Committee welcomed Ms. Robyn Layton, Chairperson of the Committee of Experts. She noted the continued increase in the workload of both Committees along with the increased number of ratifications. This would continue into the future given the recent ratifications following the successful campaign for the universal ratification of the eight fundamental Conventions. She noted a number of changes in the composition of the Committee of Experts, including the retirement of Sir William Douglas, the previous Chairperson. With respect to the reports before the Committee, she stated that the General Survey on dock work was of particular interest as it is an example of a Convention which

was required to span both time and increasingly sophisticated systems of advancement, and to be applied across countries with differing levels of development. She also pointed to the general observation made with respect to the ongoing debate about the issue of privatization of prisons and prison labour, under the Forced Labour Convention, 1930 (No. 29).

- 32.** In light of the Governing Body having expressed a keen interest in reviewing the operation of the ILO's supervisory machinery, the Committee of Experts had developed a process to review its work and working practices, including the establishment of a subcommittee. The scope of issues already identified for discussion includes matters such as continuity of membership, relations with other ILO committees, and the content of the report forms approved by the Governing Body. The Committee of Experts would look at ways to improve its effectiveness and efficiency as well as the content and format of its annual report. One particular matter for discussion by the Committee of Experts would relate to ways in which it may assist and facilitate the complementarity of the two Committees. Some of the methods which may be discussed by the Committee of Experts which relate to the work of the Conference Committee include whether it is possible to draw attention to those cases which the Committee of Experts considers are of special interest.
- 33.** She recalled aspects of the work of the Committee of Experts, including the importance of it giving reasons as to why it concludes that there has been non-compliance with Conventions, or alternatively why there appeared to be discrepancies between a nation's practice and the Convention's requirements. The Committee of Experts gives its reasoning in a context which includes historical features, and with awareness of the current social and economic circumstances within the State; at the same time, it must be rigorous in its technical evaluation of compliance. She pointed to its reliance on reports and comments from employers' and workers' organizations. She noted that it was also important that the report of the Committee of Experts should be comprehensible to a wider audience, which includes not only all members of the tripartite constituency and bodies within the ILO, but persons in general who have an interest in the work of the Committee of Experts. The speaker concluded by outlining the way in which the experts work and by assuring the Committee that the Committee of Experts was indeed independent and enjoyed unquestionable ownership of its reports. She expressed the hope that the dialogue between the two Committees would continue in future.
- 34.** The Worker members thanked the new Chairperson of the Committee of Experts on the Application of Conventions and Recommendations, for having accepted to attend the discussions concerning the General Report, as Sir William Douglas had done in the preceding years. They welcomed the interaction and the close collaboration between the Committee of Experts and the Conference Committee, both of whose objectives were largely the same. Thanks to this system, the legal, technical, and impartial analysis of the experts was completed by the positions and testimony of persons who were close to the facts on the ground. This complementarity was one of the keys to the success of the ILO's supervisory system.
- 35.** The Worker members paid tribute to the International Labour Standards Department for the conviction with which it pursued its mission, and they especially recognized the research and studies carried out by the Department to assist the work of the Conference Committee. They regretted that the importance of the Department had not been visibly recognized to the degree it deserved, as was evident from the fact that its budget continued to shrink while, at the same time, its workload never ceased to increase.
- 36.** With regard to the report of the Committee of Experts, the Worker members welcomed the efforts that had been made to improve its readability and they noted that this year the

report provided an even better explanation of the functioning of the system. These explanations contributed to a better understanding of the duties of both committees, but they also allowed a better public understanding of the supervisory system and especially the contents and conclusions of the debates at the Conference Committee.

- 37.** The Worker members took positive note of the fact that governments accepted their responsibilities by ratifying Conventions and therefore submitting themselves to supervision regarding the effective application of their obligations. Once ratified, Conventions needed to be applied at the national level in law and practice. Even though there was a constant rise in the number of ratifications, on the global level there was not a corresponding improvement in the real situation as was indicated by the number of complaints and representations which confront ILO bodies every year. In order for the instruments to be applied in practice, there had to be a political will to do so. There also had to be the will of the government and the competent authorities. It was further necessary that the reporting system on the application of ratified Conventions was well understood, and here again there had to be political will to put it into practice. The Worker members underscored the fact that the collaboration of workers' organizations in the supervisory system on international labour standards was fundamental for a better understanding of the national situation and for a better evaluation of the results of certain government initiatives. Even if the trade unions did not participate to the same degree in all the facets of the ILO's standards and supervisory system, their role in this matter should be highlighted.
- 38.** The Worker members were pleased to refer to the attendance of the spokesperson of the Workers' group at the Committee of Experts' session celebrating the 75th anniversary of the Committee of Experts, where they expressed their concerns and expectations regarding the supervisory system in general, as well as on the functioning of the Committee of Experts and the Conference Committee. For 75 years the Committee of Experts had played an important role in the supervisory system for international labour standards and they congratulated both its current and former members for the work they had accomplished.
- 39.** The Worker members observed that the 50th anniversary of the Committee on Freedom of Association was of special importance for workers' organizations. That Committee always exercised a considerable influence on the lives and respect of rights of numerous trade unionists and workers around the world, and its observations and recommendations concerning the freedom of association cases submitted to it carried a certain authority with the various ILO bodies, especially the Governing Body, the Committee of Experts, and the Conference Committee. The latter had in fact often been called upon to examine individual cases regarding difficulties in the application of [Conventions Nos. 87 and 98](#), and the reports of the Committee on Freedom of Association had been very useful in this arduous task. As noted in paragraph 19 of the Committee of Experts' report, the Committee on Freedom of Association had obtained positive results, notably concerning the recognition of the right to strike, which the report of the Committee on Freedom of Association of March 2002 confirmed and explained in further detail. It was interesting to note that the Committee of Experts, composed of independent persons coming from all the continents, had confirmed the position of the Committee on Freedom of Association concerning the right to strike, a fact which should be sufficient to close the debate on this question.
- 40.** The Worker members expressed their strong hope that the collaboration and dialogue with the Employer members and the Governments would be constructive. As concerns the relations between the Workers and the Employers, they noted that although the two groups agreed on numerous issues, there were however serious divergences on certain points. Regarding the legal force of the observations, recommendations or conclusions of various supervisory bodies, while it was not possible to speak about case law in the strict sense,

these observations had undeniable political weight and force, particularly when they came from tripartite bodies. Thus, for example, the Workers would continue to use the conclusions of the Committee on Freedom of Association in the course of the examination of individual cases under review by this Committee. Finally, they emphasized that the impartiality and independence of the Committee of Experts could not be doubted.

41. The Employer members noted that the report of the Committee of Experts had become even longer this year than the one last year, which had been the longest report ever. Although the General Report was getting shorter, some of the text previously included in that part was hidden in the observations concerning particular countries, and in this regard they referred to the general observation on forced labour. The Employer members noted that the workload of the Committee of Experts was expanding, though the core functions of the Committee of Experts' mandate remained unchanged. It was not part of the mandate to advise member States to ratify a Convention. The Committee of Experts was not a multi-purpose instrument, and therefore rightly recalled the content of its mandate whose basic purposes and principles had remained essentially the same throughout this period. This was also true for the mandate of the Conference Committee, which was described in detail in article 7 of the Standing Orders of the Conference. The Conference Committee must examine, without any restrictions, the reports and information provided by member States in accordance with articles 19, 22 and 35 of the ILO Constitution, and report to the Conference.
42. In marking the anniversaries, the Employer members recalled that the establishment of the Committee of Experts in 1926 came about because the member States submitted, in accordance with Article 408 of the Treaty of Versailles, a total of 150 reports totalling between 200 and 300 pages. The idea at that time was that the Committee of Experts should do the preparatory work for the Conference Committee's examination. The report of the Committee of Experts described the milestones of the development of its work throughout its 75 years of history. They wished to add some points to the interesting historical information contained in the report. These referred to facts that were documented and concerned both the function and placement of the Conference Committee and the Committee of Experts within the Organization. They considered it appropriate for the Conference Committee to examine its own 75th anniversary. In 1926, at the Eighth Session of the Conference, the Conference Committee proposed to establish a Committee of Experts and to give it a mandate. The details of the working methods of the Committee of Experts to date were well established by the Governing Body. Based on this history and founding instruments, it was clear that the Committee of Experts' task was of a technical legal nature and in no case did it have a quasi-judicial role. In particular, it did not have the authority to interpret international labour standards. The Employer members referred to the Record of Proceedings of the International Labour Conference, Eighth Session, 1926, Volume I, pages 400-401, where it was said that "the functions of the Committee [of Experts] would be entirely technical and in no sense judicial". The independent and objective report of the Committee of Experts was not intended to replace the monitoring functions of the Conference Committee, but represented a first step in the reporting and supervisory system. The Committee of Experts was, according to the 1926 Conference decision, established for a probationary period of one to three years. It was the Conference Committee that pleaded most for the prolongation of the mandate of the Committee of Experts. It was interesting that in the second report of the Committee of Experts in 1928, the Governing Body changed the heading in one of the major chapters from "criticisms" to "observations", which is still used today.
43. The Employer members reflected on the reporting obligations from a historical perspective. Originally, greater expectations had existed for using the procedures established under articles 24 and 26 of the Constitution, but in reality the reports of the

member States developed as the basis for an effective supervisory system. Later, the Conference Committee agreed to some changes and initiated others. For example, it was the proposal of this Committee in 1946 to introduce article 19, paragraph 5(e), into the Constitution, which established the basis for the preparation of an annual General Survey.

44. The Employer members recalled events outside of the ILO, such as the cold war, that had produced serious divergences of opinions and occasional confrontations throughout the history of the Conference Committee. The Conference Committee was closely involved in these developments. Sometimes there was the sense that the Committee was part of the preparations towards the transition to democracy and pluralism of member States. These developments were noted in this Conference Committee even before political changes had taken place officially. Some Government representatives had pleaded in private discussions that the Conference Committee should maintain its criticism of member States for non-observance of a ratified Convention, in order to increase pressure and to accelerate the hoped-for changes. Fortunately, these times were over. Occasional divergences of opinion between the Conference Committee and the Committee of Experts should be considered normal and acceptable. Such differences in opinion were due to the fact that the Conference Committee had to evaluate facts and there could be some dispute whether these facts were substantiated or presumed, which was not a mathematical exercise. Facts and events had to be compared with the requirements laid down in a Convention; thus a legal conclusion had to be made in which there could be differences of opinion which would affect the conclusions drawn.
45. In general, the Employer members agreed with the statement contained in paragraph 15 of the Committee of Experts' report that both bodies had built a solid collaborative relationship, and that the work of each Committee depended on the work accomplished by the other. The conflict that had taken place 12 years ago had been rapidly overcome. The point of conflict was not over whether the Committee of Experts had to interpret law, since the determination of whether or not a member State complied with the obligations arising out of the provisions contained in ILO Conventions cannot be done without applying legal standards; it was whether these unavoidable interpretations were binding. In this respect, the Committee of Experts had rightly corrected in 1991 its opinion set out in 1990. Only the International Court of Justice had the authority to make binding interpretations of Conventions and Recommendations, which clearly derived from article 37 of the ILO Constitution and the founding instruments, as well as the stringent consideration that the competence of the Committee of Experts cannot exceed that of the body which created it (the *ultra vires* doctrine). This would not hinder the fruitful collaboration between the Conference Committee and the Committee of Experts.
46. The Employer members agreed with the opinion often expressed that the supervisory system of the ILO was not only the oldest but was also the most successful within the UN family. The supervisory machinery served to a certain extent as a model for other areas outside of the ILO; however, its success was relative. It had to be taken into consideration that the subject was the monitoring of compliance with international law. These obligations were assumed on a voluntary basis and the effective application through member States ultimately was also voluntary. It required the acceptance and willingness to collaborate on the part of all parties concerned, which could be promoted through serious confidence-building dialogue with the member States. The Committee of Experts and the Conference Committee should be aware that this important task ultimately required tact and diplomacy, and they should act accordingly. The supervisory bodies are in no case judiciary bodies since they do not have the means to enforce the application of ILO instruments through executive actions.

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47. The Employer members drew attention to the principles of objectivity, impartiality and independence that animated the work of the Committee of Experts and to the principles by which the Governing Body selected the members of the Committee of Experts. They recalled a time when some members of the Committee of Experts were not as independent as they were supposed to be, due to the East-West conflict. This was shown regularly in the dissenting opinions on some general questions in relation to important Conventions. This period apparently had traumatized the Committee of Experts, leading to the sentence found in paragraph 103, which said that “decisions on comments were adopted by consensus”. The Employer members considered it extremely unusual and nearly impossible to reach permanent consensus amongst 20 outstanding lawyers. It was, however, probable that the consensus, nearly always reached, was the result of internal organization of the Committee of Experts that decided to work according to the principle of individual responsibility for a group of topics. Every member of the Committee of Experts prepares the draft comments in collaboration with the responsible officials of the Office. These results were then endorsed by the entire Committee of Experts (see report of the Committee of Experts, 1987, paragraph 43).
48. The Employer members referred to the 50th anniversary of the Committee on Freedom of Association. They recalled that the Committee on Freedom of Association was only an auxiliary body of the Fact-Finding and Conciliation Commission, which was rarely active because it could only be used with the express consent of the member State concerned. The primary role of the Committee on Freedom of Association was to elucidate the facts and to propose solutions in the cases submitted to it. The Employer members agreed that the Committee on Freedom of Association had made a valuable contribution to greater respect of this fundamental right. However, it was misleading in many respects to think that the individual recommendations made by the Committee on Freedom of Association could create a jurisprudence on the right to strike. The Employer members had repeated throughout the last 12 years, but also going back to 1953, that a right to strike in labour disputes could not be derived from [Conventions Nos. 87 and 98](#) concerning freedom of association and collective bargaining. This view was based on three grounds: the wording of the standards, the correct application of binding rules of interpretation concerning international treaties, and the documents containing evident declarations on their scope when the standards or instruments were elaborated and adopted. In their view, the individual recommendations of the Committee on Freedom of Association were not at all “decisions” and did not represent a platform to establish rights regarding labour disputes. That was even truer given that the Committee on Freedom of Association often had to deal with events in member States which had not ratified the relevant Conventions. In these cases, the Committee on Freedom of Association could only refer to the principle of freedom of association contained in the ILO Constitution and the Declaration of Philadelphia, but the principle of freedom of association did not guarantee a specific right to strike.
49. The Employer members also drew attention to the fact that the Committee of Experts had noted a generous interpretation concerning the receivability of complaints by the Committee on Freedom of Association. The Committee of Experts also noted the large number of pending and new cases. The Employer members thought that in this respect a reasonable consolidation was needed and there was a need for greater observance of the fundamental principle called “*audiatur et altera pars*” with regard to all complaints and representations submitted under articles 24 and 26 of the ILO Constitution. This meant that complaints and representations which were formally addressed to the member State were in the end also addressed to the employers concerned; therefore, the employers concerned must have sufficient time and opportunity to present their position.

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- 50.** Finally, the Employer members underlined the importance of exchanges between Employer and Worker members. Fortunately, there was basic agreement on the objectives of the Conference Committee's work and the objectives of the ILO. This should be taken into account, in particular in unavoidable situations of conflict. In particular, on the evaluation of individual cases a certain consensus was desired, but if this was not feasible or possible the Conference Committee should accept differences of opinion. However, nothing should be forced by means of random results of a vote. The experience of this system up to 1989-90 had been negative. As the Secretary-General of the International Confederation of Free Trade Unions (ICFTU) had stated, the necessary will to form partnerships between workers and employers was somewhat difficult to achieve, but was indispensable in a changing world where the ILO itself needed to change. A strategic partnership should be the aim.
- 51.** Several Government members (Belgium, Egypt, India, Kenya) congratulated the Committee of Experts and the Committee on Freedom of Association on the completion of 75 and 50 years of work, respectively. The Government member of Egypt paid tribute to the major contribution made by its former and present members to the work of the Conference Committee. The Government members of Egypt, India and Kenya commended the Committee on Freedom of Association on the valuable contribution it had made over the years in promoting greater respect for this fundamental right around the world. The Government member of Belgium stated that the important work of the Committee of Experts undoubtedly constituted the backbone of this Organization. The Government member of Norway (speaking on behalf of the five Nordic Government members of the Committee) emphasized the complementarity among the Committee of Experts, the Committee on Freedom of Association and the Conference Committee is important for the ILO in its endeavour to ensure that respect for the fundamental Conventions remained a daily reality for everyone everywhere.
- 52.** Several Government members (Belgium, Brazil, Italy, Mexico) thanked the Committee of Experts for their report and emphasized its importance to the work of the Conference Committee. The Government members of Italy and Norway underlined the improvements introduced this year by the Committee of Experts in its report, which was more accessible in its style and presentation. They underlined the importance of maintaining the good collaboration between these two committees.
- 53.** The Government member of Norway (speaking on behalf of the five Nordic Government members of the Committee) agreed with the Committee of Experts that the supervisory mechanisms of the ILO are the most advanced and best-functioning in the international system, but they were also convinced that the system could be further improved. He noted that although the workload and working methods of the Committee of Experts had evolved over the years, its principles of objectivity, impartiality and independence still remain solid. He expressed the hope that the Office would undertake a thorough study of the impact of international labour standards today, both in general and in selected countries, in order to highlight and document those "invisible" or less apparent instances where they had exerted a positive influence.
- 54.** The Government member of China noted that the Conference Committee had been successful in obtaining results in the implementation of Conventions. He indicated that the ILO and its Members had done a great deal of work in developing the supervisory mechanism on the application of standards and that this was greatly aided by the work accomplished by the Committee of Experts. The method of work adopted by the Committee of Experts was extremely effective for the universal application of ILO standards. There were considerable changes in the world and these changes, coupled with globalization, necessitated enhancing workers' protection in all countries. In keeping with

the needs of the times, the ILO had undertaken reforms and implemented improvements of the working methods of the Conference Committee as well as the Committee of Experts, on the basis of realism and the diversity of countries.

- 55.** The Government member of Germany recalled that the success of the present campaign to ratify [Convention No. 182](#) would result in more reports being submitted by governments to the Committee of Experts. Consequently, more staff in the Standards Department would be required in order to examine in due time the large number of reports that would arrive at the Office and to prepare them for the Committee of Experts. If these reports could not be dealt with in time, due to insufficient staffing, that would be highly unsatisfactory.
- 56.** The Government member of the United States suggested that the Chairperson of the Committee of Experts continue to attend the Conference Committee so that delegates would have a clearer understanding of the working methods of the experts. He added that the briefing session at the beginning of the Committee was of value for new members unfamiliar with its operations and as a refresher for other members, and its continuation should be encouraged.
- 57.** The Worker members of Colombia, France, Pakistan and Senegal appreciated the work of the Committee of Experts and praised the high quality of the Committee of Experts' report. The Worker members of France, Pakistan and Senegal also expressed their appreciation for the work of the Committee on Freedom of Association. A Worker member of France commended the jurisprudence of, and the efforts made by, the Committee on Freedom of Association in favour of the defence of workers' fundamental freedoms. The Worker member of Senegal emphasized that the complementarity of these two bodies was a crucial element in the supervision of freedom of association.
- 58.** The Worker member of Luxembourg emphasized, like the Committee of Experts, the role of employers' and workers' organizations in the application of international labour standards. He stressed that, without their competence and watchfulness, the supervisory work of the Committee would become difficult. It was thus unfortunate that the number of comments received from these organizations had gone down significantly. Such a decrease would have been welcome had it coincided with greater compliance on the part of the different actors in ensuring respect for standards. Regretfully, this was not so. Violations of international labour standards continued in and affected all countries, including the developed ones. He wondered, under such circumstances, whether the circular letter inviting representative organizations to contribute to the application of Conventions and Recommendations was sufficiently distributed among those principally concerned. Finally, he suggested that it might be useful to provide them with a model of an appeal or of comments, as well as a document describing, in detail, the procedures to follow.
- 59.** A Worker member of France stated that the ILO had the best supervisory mechanism to monitor the application of standards. In this context, the active participation of free trade unions had to be emphasized since the ILO could not exist without freedom of association. It was obvious that the reduction of the decent work deficit could only be achieved through the quantitative and qualitative development of the Organization's standards-related activities. It was important to continue the work of the Committee of Experts and of this Committee, as well as standards setting, but above all it was important that governments ratified Conventions and ensured their application in practice. He stated that the Workers were attentive to all discussions but, above all, they needed rights which were effective, and violation of which would be sanctioned.
- 60.** The Employer members referred to the issue of globalization that had been dealt with for the last couple of years during the general discussion. They considered that the ILO

embodied globalization long before the term became widely used. The ILO had developed its minimum labour and social law standards, and had offered these regulations globally, campaigned for ratification and started to monitor observance. The Employer members agreed with the Secretary-General of the United Nations when he said at the inauguration of the International Tribunal for the Law of the Sea that “the language of the global community was international law”. The ILO had been trying for a long time to accompany national and international trade with minimal standards in the area of labour. The strengthening of worldwide economic collaboration should not be seen in a negative light since a merely negative attitude cannot stop it. Globalization was in a large part successful for those who participated. In this respect, the Employer members referred to the recent intervention in the General Council of the International Organisation of Employers (IOE) by the Secretary-General of the ICFTU, emphasizing that trade unions were not against globalization as such; however, workers wanted to participate fairly in the process. Difficulties were encountered by both sides of the economy, as enterprises also had to adjust painfully to the requirements of globalized markets. Therefore, every effort should be undertaken to enable all States to participate to the largest extent possible in a strong economic exchange. Instead of resignation, it was important to train all parties for this development. Only then would the chances for growth in the economy and in employment be realized.

- 61.** The Worker members regretted that the economic and monetary institutions, for example, had available compulsory standards, while in the social field, standards only had an indicative nature. The Workers were in favour of a globalization which was not founded exclusively on economic interests, but which took into account the social dimension. The ILO had an essential role to play in this globalization. The workers’ organizations’ fears were real in the face of the possible attractiveness of standards that were easier to ratify, implement and supervise. In order to guarantee the universal protection of workers, compulsory rules were needed at the international level. That was why the Workers did not want only “fundamental” Conventions and expected more than mere “framework” Conventions.
- 62.** The Worker member of India emphasized that achieving changes in the socio-economic order of a State was not easy and that it was even more difficult to obtain the dignified treatment due to workers. Yet this was precisely the Committee’s objective. In addition to legislation, this required the changing of attitudes by workers, employers and those in power. The Committee’s task of monitoring and promoting this type of change through the application of standards was a democratic process requiring dedication, patience and perseverance. It was therefore important to increase the efficiency of the process, particularly in view of the external pressures on governments and employers to worsen working conditions. He therefore called upon the ILO to make outstanding efforts to address the major phenomenon of a global economic order, which would spell disaster for developing countries and their workers.
- 63.** A Worker member of Colombia felt that the report did not sufficiently take into consideration the current world situation of growing poverty and misery and the concentration of wealth in a few hands, and this discrepancy endangered the application of the international labour standards. The growing degradation of workers and the desperate lack of protection for workers was due to the globalization imposed by the International Monetary Fund, the World Trade Organization and other bodies in the service of great powers and multinational enterprises. A neo-liberal model weakened the Third World, destroyed productive forces in countries and took away social functions of States, by giving to private capital the possibility of satisfying its basic needs. Such flexibility contributed to reducing stability and weakening workers’ rights in the countries where unemployment rates were incredibly high, and where underemployment, precarious forms

of employment and liberalization had increased. Working hours had been increased, social security and trade union rights had been weakened, and collective bargaining and strike action prevented. Even more worrying was the fact that employers and governments demanded more flexibility, encouraged privatization and other measures which worsened the situation to such an extent that poverty and misery had reached unprecedented historical levels. While expressing his concern about the risk for the ILO of losing ground, the speaker referred to the possibilities of improving the situation in the world of work. Thus, the time had come to put an end to politics that did not aim at the elimination of poverty of the most disadvantaged groups. It was therefore necessary to reinforce the role of the ILO in the building of a better world.

- 64.** The Worker member of Guatemala referred to globalization, which no doubt had been favoured by the development of knowledge, science and technology. These factors had contributed so that humanity may strengthen its bonds. Unfortunately, this phenomenon did not have only positive effects, since it was the cause of devastation from a social and, consequently, human point of view. In fact, the gap had increased between a minority of extremely rich persons and a large majority deprived of the possibility to satisfy its most basic needs such as employment, health, education, accommodation and many others.
- 65.** The Government member of Belgium welcomed the collaboration between the ILO and other international bodies, particularly as regards human rights issues. In this connection, he thought it would be desirable to have the ILO's influence on the work of the Conference on Sustainable Development in Johannesburg to recall the social basis of development and international labour standards.
- 66.** The Worker members took positive note of the fact that, as in previous years, the number of ratifications of fundamental Conventions had significantly increased, especially the Minimum Age Convention, 1973 (No. 138), and the Worst Forms of Child Labour Convention, 1999 (No. 182). This was undoubtedly the welcome result of ratification campaigns and the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work, 1998, and these campaigns should be continued. The Declaration was, in fact, above all a promotional instrument that at some point should lead to a formal and supervisable adherence to the fundamental principles and relevant Conventions. Conventions Nos. 138 and 182 appeared to pose difficulties in their practical application, as would be seen in the discussions on individual cases and as was indicated by the fact that this year's report mentioned for the first time a situation regarding the application of Convention No. 182.
- 67.** The Worker members raised an aspect of the application of the Forced Labour Convention, 1930 (No. 29), which was of special interest to them: forced labour in prisons. They acknowledged the interesting discussion on forced labour in prisons which had taken place at the previous session, thanks to a "mini General Survey" by the experts in the General Report of last year. That discussion had provided the framework for a larger and continuing debate and had set forth the examination of the concrete application of the Conventions in question by, and within, prisons of member States. In its new report, the Committee of Experts returned to the discussion of its previous session in a general observation which it formulated in the second part of the report on the examination of Convention No. 29, an observation which would surely reveal itself as very useful, notably in that it confirmed the firm position taken by the Worker members in this matter.
- 68.** The Employer members welcomed the success of the ratification campaign in relation to fundamental Conventions. They noted the positive development of the ratification of [Convention No. 182](#). With respect to the observations contained in the report of the Committee of Experts on the Forced Labour Convention, 1930 (No. 29), they would take

this up at a later stage during the discussion of the individual cases, as this year the Committee of Experts had not placed the observations on this issue in the general part of the report.

- 69.** The Government members of Egypt, Italy, Kenya, and Norway (speaking on behalf of the five Nordic Government members of the Committee) referred to the ratification campaign and welcomed the increasing number of ratifications of fundamental Conventions, particularly highlighting the Worst Forms of Child Labour Convention, 1999 (No. 182). The Government member of Italy hoped the ratification campaign would be extended to other Conventions.
- 70.** According to the Government member of China, the high number of ratifications of the Worst Forms of Child Labour Convention, 1999 (No. 182) showed that when Conventions were drafted in a manner that was acceptable to countries, they were likely to be ratified. He stated that China respected the rights of the child and that it was in favour of the elimination of the worst forms of child labour. It had accelerated the ratification of Convention No. 182 and it had taken measures for the ratification of the Minimum Age Convention, 1973 (No. 138). The Government member of Belgium noted that by ratifying Convention No. 182 on 8 May 2002, Belgium was among the States which had ratified the eight fundamental Conventions. The Federal Ministry of Employment and Labour was going to elaborate a national plan of action aimed at the elimination of the worst forms of child labour in collaboration with the social partners and the competent authorities. It seemed that certain States, which had extensive legislation on the subject, hesitated to establish such plans and he wondered whether such a situation would be acceptable to the Committee of Experts.
- 71.** The Government member of Egypt indicated that in her country a new draft law had been submitted to Parliament, which would be favourable to industrial relations and make the right to strike possible. Egypt had ratified the fundamental Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87). A new draft of the Labour Code had been submitted to the People's Assembly, and would be transmitted to the Committee of Experts once it had been adopted. In May 2002, her Government had ratified the Worst Forms of Child Labour Convention, 1999 (No. 182), and warmly welcomed the fact that the ILO had entrusted Egypt's First Lady, Ms. Suzanne Mubarak, with working for the abolition of child labour. She outlined the measures her country was taking to ensure that child labour was controlled in the various provinces of the country. The Government member of Lebanon stated that the Convention on Freedom of Association and the Right to Organise, 1948 (No. 87) had been submitted to the Parliament under article 19 of the ILO Constitution for information. The Minimum Age Convention, 1973 (No. 138) had been ratified by the Parliament on 28 May 2002 and would shortly be communicated to the Office. The Government member of Fiji stated that his Government had ratified the remaining five core Conventions on 17 April 2002. He commended the support given by the trade union movement in Fiji to the Government in making the prospect of ratification a reality.
- 72.** A number of worker members (Colombia, Guatemala, Senegal) welcomed the ratifications of fundamental Conventions, and the fact that a large number of countries had ratified the Worst Forms of Child Labour Convention, 1999 (No. 182). A Worker member of Colombia also stressed the importance of the evaluation, in practical terms, of the extent to which the ratifying States comply with provisions of child labour Conventions, while at the same time tolerating mass dismissals, reduction of financial deficits at the expense of employment and acceptance of programmes imposed by financial institutions. Such examples were numerous in Latin America, the Caribbean, Asia and Africa, which certainly led to the conclusion that nowadays a double moral standard had been

established, which pretended to protect children, on one hand, while making their parents victims of dismissals, unemployment and work in the informal sector, on the other hand. The Worker member of Guatemala thought it important to delineate a strategy to overcome the shortfalls in the implementation of several Conventions, including 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 fact, it seemed essential not to lose sight of the crisis, the problems and the damages involved for workers by the fact that certain States breached these Conventions and by the fact that some instruments had come to be considered as obsolete. For this reason, it would be very exciting and helpful if it were possible to set up a universal campaign to consolidate an ethic, a culture and a policy of respect, common to all States, with a view to the implementation of ratified Conventions.

- 73.** The Worker member of Pakistan referred to the need to respect human rights, including those concerning migrant workers and women. He urged the recognition of the right to strike as a last resort to address questions such as forced labour, structural adjustment and the like. Referring to the recent ratification by Pakistan of the Equal Remuneration Convention, 1951 (No. 100), and the Worst Forms of Child Labour Convention, 1999 (No. 182), he pointed out the need for assistance in implementing them. He urged his Government to lift restrictions upon the exercise of the basic trade unions' rights of workers engaged in open railways, KESC, PIA, etc., as it had done in WAPDA in order to honour its international obligations under [Convention No. 87](#).
- 74.** A Worker member of France declared that he fully shared the conclusions of the Committee of Experts on the subject of the application of the Forced Labour Convention, 1930 (No. 29), to prison labour. He stated that the Organization had to take action to put an end to the numerous violations of this Convention. The Worker member of the Syrian Arab Republic recalled that his Government recently ratified had the Minimum Age Convention, 1973 (No. 138), and most likely it would shortly ratify the Worst Forms of Child Labour Convention, 1999 (No. 182), thus achieving the ratification of all fundamental Conventions. The detailed study on the Forced Labour Convention, 1930 (No. 29), had shown the importance of this instrument, in line with other UN instruments. The Syrian workers attached great importance to Conventions concerning economic and social development, and undertook efforts towards the implementation of such Conventions in cooperation with the national authorities. Reforms in the area of freedom of association had been introduced by Presidential Decree No. 25/2000, to bring the law into conformity with the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87).
- 75.** The Worker members, while welcoming the ratification and application of fundamental Conventions, also drew attention to the importance of other standards. For example, the majority of representations under article 24 of the ILO Constitution concerned the Indigenous and Tribal Peoples Convention, 1989 (No. 169). This Convention had a direct relationship with the fight against racism. The World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, which was held in Durban in September 2001, demonstrated that much remained to be done in this field; it was therefore hoped that the ILO would take a leading role in this matter. The example of Convention No. 169 clearly showed that there were indeed more ILO standards than only the fundamental Conventions and that the ratification, and especially the application, of many other Conventions was necessary. Another example of Conventions essential in the daily life of thousands of workers were those concerning night work, as had been indicated in the discussion on the General Survey in the 89th Session of the Conference and as had also been mentioned in paragraph 37 of the General Report of the Committee of Experts regarding denunciations not accompanied by the ratification of a revising Convention. In

the general discussion of 2001, the Worker members had expressed their preference for the ratification of the Night Work Convention, 1990 (No. 171), which provided for measures and regulations regarding the night work of both men and women workers. In their view, night work was harmful for all, and it was preferable to adopt a global and coherent approach that would nonetheless take account of the specific cases of pregnant women, recent new mothers and young workers. Moreover, while encouraging the ratification of Convention No. 171 (ratified by only six member States as of today), the Worker members also called on countries not to denounce the other ILO Conventions on the night work of women, especially in cases where Convention No. 171 had not yet been ratified, in order to avoid a legal void or, even worse, a step backwards in the level of applicable standards. Furthermore, they noted the indication in paragraph 37 of the report that out of the six member States which had denounced either the Night Work (Women) Convention (Revised), 1948 (No. 89), or both, only two had ratified Convention No. 171 (Cyprus and the Dominican Republic). The Worker members reiterated the appeal, which they had made at the previous session, for governments to begin the process of ratifying Convention No. 171 without denouncing during this waiting period other Conventions on the night work of women.

76. A Worker member of France emphasized the importance of Conventions other than the fundamental ones. International labour standards were essential in facing the increase of work in the informal sector and the development of precarious work that could be noted in all countries. He felt that the numerous denunciations of Conventions Nos. 4 and 89, without the concomitant ratification of Convention No. 171, were proof of the desire to extend night work. He added that this type of work was damaging to the health and safety of workers and should be authorized strictly in the case of essential services for health care or the protection of persons and goods or in industries where it was necessary due to the technical nature and requirements of the industry, and in no case to accelerate the rotation of capital and material investment.
77. The Worker member of Senegal stated that it was also necessary to have a ratification campaign on the technical Conventions. He emphasized that workers were in need of security, in need of acquiring new rights and of consolidating existing ones, respect for which was still difficult to obtain. The Worker member of the Syrian Arab Republic encouraged his Government to ratify all Conventions and amend the laws in accordance with the comments of the Committee of Experts. A Worker member of Colombia stated that today it was more than ever essential to respect the ILO Conventions and Recommendations, so as to contribute to a secure peace and democracy. He considered it a provocation to pretend that the victims of savage and inhuman globalization must accept this as an instrument of progress.
78. The Government members of China and Kenya and the Worker member of Guatemala noted the number of ratifications registered. The Government members of Brazil and Lebanon recalled the most recent ratifications by their countries. Brazil had ratified Convention No. 138 and Convention No. 174, concerning the prevention of major industrial accidents. In Brazil a tripartite working group would soon be established in order to examine the ratification of the Labour Inspection (Seafarers) Convention, 1996 (No. 178). Lebanon had recently ratified the Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159).

Fulfilment of standards-related obligations

79. With respect to obligations concerning submission, the Worker members regretted that no fewer than 127 member States out of 175 had not yet submitted to their competent authorities the instruments concerning maternity protection which were adopted by the

Conference at its 88th Session (May-June 2000); nor had they provided information on this matter. The Worker members pointed out that ratification of Conventions was an essential first step in the supervisory system of the ILO, but in order for the Committee of Experts and the Conference Committee to fulfil their responsibilities, it was essential that member States prepare and send regular reports on the application in law and practice of ratified Conventions. The role of trade unions in the reporting process had to be underlined.

- 80.** The Employer members noted that compared with the preceding year, delays in reporting had increased and the cases of progress had declined. The Employer members joined the Committee of Experts in expressing satisfaction concerning changes of legislation and practice based on previous observations, and pointed out that observations and discussions in the Conference Committee possibly also contributed to such progress. They further noted that the number of comments made by Workers and Employers was decreasing. The list contained under paragraph 96 on submission of reports between the dates of the Committee of Experts and the Conference Committee, which had been introduced at the request of the Employers, had grown longer. The submission in this time frame meant that the reports could not be examined nor could they be criticized in the Conference Committee. They thought that the listing of these countries could indicate which ones show systematic behaviour in this regard. In this respect, the Employer members shared the concern of the Committee of Experts regarding the functioning and effectiveness of the supervisory system.
- 81.** The Employer members, referring to paragraph 120 of the report, asked what procedure of the Committee of Experts existed in the case where allegations of non-observance were submitted but the government concerned did not have the opportunity to reply by the time of the Committee of Experts. Occasionally, such allegations were reproduced in the report of the Committee of Experts without any comment, which constituted problems when the government could not present its position. It was different if a certain amount of time passed or statements or behaviour of the government concerned indicated that it did not want to reply or was procrastinating.
- 82.** Several Government members (Brazil, Italy and Kenya) expressed concern over the statistics on submission and reporting, emphasizing that non-fulfilment of such obligations disturbed the proper functioning of the supervisory system. They further agreed with the views expressed by the Committee of Experts to the effect that the supervisory procedures can function properly only if reports requested on ratified Conventions and replies to direct requests were communicated to the Office by the due date. The Government member of Kenya further referred to paragraphs 135 and 136, which in his view depicted a rather worrying trend of an increasing number of countries being included under the heading of “special problems”. Several of these were developing countries that appeared to be in urgent need of technical assistance by the Office to overcome difficulties in meeting their reporting obligations.
- 83.** The following Government members provided information on measures that had been taken to meet their standards-related obligations. The Government member of Egypt indicated that her Government had achieved some progress in the application of the Medical Examination (Seafarers) Convention, 1946 (No. 73), and had submitted all its reports under articles 19 and 22 of the Constitution. Furthermore, the instruments adopted by the Conference in 2001 concerning safety and health in agriculture had been submitted to the competent authorities. The Government member of Brazil stated that the Ministry of Employment had submitted to Parliament the documents for the ratification of the Safety and Health in Construction Convention, 1988 (No. 167), and the Safety and Health in Mines Convention, 1995 (No. 176). The Government member of Italy indicated that this year his Government had sent all reports within the indicated delay. The Government

member of Kenya reported that, with regard to obligations arising under article 19 of the Constitution, his Government had already submitted to Parliament all instruments adopted during the 34th, 42nd and 81st-87th Sessions of the Conference.

- 84.** The Government member of Fiji stated that his Government's non-compliance with the reporting requirements did not in any way reflect an absence of its commitment to respect the relevant Conventions. It had been rather unfortunate that the Labour Advisory Board, which advised the Minister for Labour on employment and industrial relations matters, could not meet to discuss the reports, but the Board would meet in September this year and consider all the outstanding reports as required under the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), which was ratified in 1998. The Government was working towards the implementation of the core Conventions. The first report on the Indigenous and Tribal Peoples Convention, 1989 (No. 169), was under preparation and he hoped by the end of this year that all multi-ethnic and social parties involved would have been consulted and the report would be submitted to the ILO. The Government member of Iraq recalled that his Government was a party to various Conventions and did its best to meet its obligations and it continued to honour its constitutional obligations to respond to the questionnaires, generally within the established time frame, despite the aggressions of 1991, 1998 and 2001. Iraq intended to improve its cooperation with international institutions, as shown by the fact that it had adhered to a number of new Conventions in recent years.
- 85.** A Worker member of France felt that the non-fulfilment by States of their constitutional obligations provided proof of a certain disregard of the work of the Organization that was now, more than ever, vital to workers. He added that in this regard it was unfortunate to note that France had not submitted one instrument to the competent authorities since the 83rd session and had ratified only one Convention in the last 15 years. The Worker member of Pakistan, while noting the increase in the numbers of ratifications of the ILO fundamental Conventions, was preoccupied at the gap that existed between the ratification and the implementation of Conventions. He referred to paragraph 117 of the report of the Committee of Experts where it indicated a fall from 311 to 195 of the number of observations received from employers' and workers' organizations (34 of which were from employers' organizations).

Standards policy

- 86.** 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), referred to the final report of the Working Party, which described the results of its work and had been made available to the Committee. He recalled that the Working Party had been established by the Governing Body to review all ILO standards, except for the fundamental and priority Conventions and standards adopted after 1985. With the exception of the Termination of Employment Convention (No. 158) and Recommendation (No. 166), 1982, it had made proposals reached by consensus for each instrument, which had all been adopted by the Governing Body. Moreover, he felt that the Working Party had given rise to what might be termed "derived products", which included the integrated approach and the constitutional amendment for the abrogation of obsolete instruments. In his view the progression from the 184 official Conventions to the 71 Conventions now considered to be up to date would be a long process, which would require Office attention. In assessing its achievements, over and above its material results, he thought that the Working Party had given rise to a new dynamic in modernizing the body of standards.

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- 87.** With regard to the normative policy of the ILO, the Worker members referred to the decisions taken by the Governing Body concerning reporting obligations on the application of standards. Above all, what was essential was that the supervisory mechanism functioned correctly. Since the reports were indispensable in this regard, any modification of the system should have this concern as its primary focus. Concerning the future of the ILO's standards system, they recalled the point of view they had expressed at the previous session and their debate with the Employer members on the challenges that lay ahead for the ILO in the field of standards. Noting the differences on this issue, the Worker members remained of the opinion that, in any case, the discussion on this matter went beyond the framework of this Committee and of the Conference, and they found it preferable to bring the issue to the attention of other bodies of the ILO, notably the Governing Body.
- 88.** Welcoming the explanations given in paragraph 33 on the "integrated approach" on standards-related activities, the Worker members waited with great interest for the Conference discussion in 2003 on occupational safety and health at work. While they placed great hope on this initiative, the Worker members nonetheless expressed their attachment to the "traditional" supervisory system. They believed that indeed the supervisory mechanism on international labour standards, as it existed, with its different phases, remained essential in ensuring the application of standards in countries, and that it was closely linked to the fundamental purpose of the Conference Committee. They regretted that this point of view did not emerge more clearly in the Report of the Director-General to the Conference.
- 89.** The Worker members reiterated their confidence in the Working Party on Policy regarding the Revision of Standards, noting with interest the work which had been accomplished in this field in recent years, as was indicated by the figures cited in paragraph 34 and in the report which the Working Party had submitted to the Governing Body. They called on the Governments to follow up on the recommendations of the Working Party adopted by the Governing Body. Nevertheless, they noted that it was difficult to comprehend that Conventions that had been producing an impact for a number of decades, were no longer relevant. A majority of standards considered to be up to date had been adopted many years ago. Thus, the "age" of a Convention could not be taken as a criterion of its relevance or usefulness. The Working Party concluded that 71 Conventions were up to date and should be promoted. In their view, this is a low number, particularly in comparison with other international organizations.
- 90.** The Employer members referred to the standard-setting process. They drew attention to the history of initiatives taken to establish a worldwide cross-border labour and social law, going back to attempts to establish international treaties or protection on labour in 1833, 1848, 1890 and 1905-06. It had been doubted at those times whether it was feasible to monitor such agreements, since supervisory mechanisms were introduced only with the Treaty of Versailles.
- 91.** With regard to the revision of standards, the Employer members noted that over half of the Conventions had been classified as not up to date. Already in 1996 when amendments to the reporting procedures came into effect, 21 Conventions had been qualified as "not corresponding to present day needs" and were excluded from governments' obligation to provide reports on them to the ILO. At the national level, it was a normal procedure to review old statutes and to strike those that had become obsolete. The ILO should first consider the necessity of a new standard, and then reach agreement on its essential content. Standards should provide advantages for all parties concerned and be conducive to employment creation. It was, furthermore, not at all necessary to choose the form of a Convention; instead, all of the instruments at the Organization's disposal should be considered and used to a greater extent. In standard setting and revision, the ILO should

recall the principle of subsidiarity, according to which issues should be regulated on the highest level, calling for worldwide application, only when they cannot be regulated on an inferior level where people actually encounter such problems. They hoped that many of their concerns would be addressed in the integrated approach. Further they pointed out that the overall procedure to review the standards-setting process was not yet completed.

- 92.** Moreover, the Employer members thought that it was obvious that the provisions concerning the entry into force and denunciation of Conventions needed to be revised. The relatively long list found in paragraph 37 concerning the numerous denunciations, with or without ratification of another instrument, showed that member States wished for more flexibility. The Employer members underlined the good collaboration between the Workers and the Employers and the progress made concerning the revision of standards. In response to the view expressed by the Worker members concerning the age of Conventions as a criterion of their relevance, they felt that the year of adoption of a Convention could indeed be an indicator of whether or not this instrument still responded to current conditions. Older Conventions were at greater risk of being outdated. This view was confirmed by the work accomplished by the Cartier group on the revision of standards. This group had found that out of 184 Conventions, only 71 were up to date, and the Employer members felt that this conclusion would have been different if it were not assumed that recent Conventions adopted after 1985 were, by definition, up to date.
- 93.** The Government members of Germany, Italy, Kenya, and Norway (speaking on behalf of the five Nordic Government members of the Committee) expressed their support for the work of the Working Party on Policy Regarding the Revision of Standards in making the ILO's standards system as up to date as possible. The Government member of Italy recalled the importance of the revision and modernization of the standards system of the ILO, based on an integrated approach to its activities, which would aim to strengthen its impact and efficiency, without diminishing the level of protection of workers. To that effect, he supported the activities of the Governing Body aiming at consolidating the efficiency of the supervisory machinery so as to guarantee the fulfilment, in law and in practice, of the obligations created by the ratification of the pertinent Conventions. The Government member of Kenya noted that there was need for an urgent and thorough review and rationalization of existing standards in order to reflect current needs and realities. Special attention should also be devoted to the relevance and content of possible new standards, which must be fairly flexible and hence easily ratifiable by many countries at different stages of development. Under paragraph 37 several denunciations by six countries had been cited, which were not accompanied by the ratification of a revised Convention. In view of this, he suggested that the ILO should make a determined effort to discard obsolete standards, and also update existing ones. The Government of Egypt was in favour of the withdrawal of the 20 Recommendations that were obsolete.
- 94.** The Government member of the United States, speaking on behalf of the IMEC group, reaffirmed the belief that the overarching goal of any review of standards-related activities should be to increase their effectiveness, visibility and transparency, while not reducing the level of protection for workers. Furthermore, the IMEC group was seeking to ensure the integrity of the entire system of standards-related activities. He welcomed the review of its working methods being undertaken by the Committee of Experts. The Government member of Germany, referring to the final report of the Working Party, noted that 22 Conventions were identified as in need of revision. He considered that the Conference Committee should take the initiative to send a clear signal by urging that these standards, which needed revision, be placed on the agenda of the Conference. He recalled that it would take at least 22 years to revise these standards if one standard would be examined at each session of the Conference, and it was more likely that the usual double discussions would occur making it 44 years to revise all the ILO instruments indicated.

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- 95.** The Government members of Belgium, Kenya, and Norway (speaking on behalf of the five Nordic Government members of the Committee) welcomed the general discussion based on an integrated approach to be held next year at the Conference, as it would permit an overall reflection on the subject and allow a more complete and in-depth evaluation of the instruments concerned. They also felt that the purpose of this approach was both to reinforce the coherence and relevance of standards and to enhance their impact through integrated action, and the systematic promotion and evaluation of standards.
- 96.** The Government member of Lebanon expressed her appreciation for the improvements in the working methods of the Committee of Experts. In her view thought should be given to the possibility of increasing the membership of the Committee of Experts. She welcomed the proposal made by the Committee of Experts that the ILO should carry out an in-depth study on the impact of international labour standards on national law and practice as that would help assess the value of the standards. She supported the integrated approach on the standards-related activities of the Governing Body but wondered whether this would give rise to the suspension of ratification of Conventions until the results of the general discussions at the next session of the Conference. She requested an explanation on why the date of denunciation of a specific Convention by a member State was determined by the date of coming into force of this Convention after receiving a certain number of ratifications, and not by the date of ratification of the Convention by the State and its coming into force at the national level. She observed that two years ago the Conference had withdrawn five Conventions which were not in force and wondered whether any State that had ratified these Conventions was able to denounce them since the date of denunciation would never come into existence.
- 97.** Several Government members (Brazil, India, Lebanon) commented on the important role of the reporting obligations and the recent changes adopted by the Governing Body. The Government member of Brazil suggested revising the report forms on ratified Conventions in a manner which corresponded to the changes in the world of work and which would also permit greater dialogue between Governments, Employers, Workers and the Organization. The Government member of India focused on the need to develop a holistic overview of the reporting procedures under articles 19 and 22 of the Constitution and the Declaration. In addition to the enormous workload created for both the Office and Governments, simplification was required and overlapping needed to be eliminated. He added that the reporting burden was increased by the fact that the questions contained in report forms were not easy to interpret and that it was not always possible to provide the Office with the required data. Even though the Declaration of 1998 was supposed to be promotional in nature, the annual review process was increasingly converting it into a supervisory mechanism. The situation was aggravated in a country such as his, which had a large geographical area, a huge and diverse population and different levels of development. The grouping of Conventions by subject matter would admittedly reduce the burden on the Office, but it needed to be ensured that the grouping of Conventions did not, in practice, accentuate the already very heavy burden of reporting obligations on governments. A piecemeal review of reporting procedures was not sufficient.
- 98.** The Worker members of Pakistan and the Syrian Arab Republic expressed appreciation for the work of Mr. Cartier and the members of the Working Party.
- 99.** A Worker member of France requested that France's commitment to ILO standards policy be shown through new ratifications, so that France may find its place among the leading States that have ratified the highest number of Conventions. The Workers were particularly committed to the standards policy, which must remain the backbone of the organization, and were determined to maintain the balance between the promotion of fundamental standards and the development of new standards. The Worker member of Senegal, in

regard to the policy of the revision and modernization of standards, stated that the obsolete nature of certain standards should not put in doubt the advances that had resulted from these standards. It was also not proper to question the supervisory system, the relevance of which had been demonstrated; the increase of its workload was supplementary proof of this.

100. Concerning a ratification campaign for the 1997 amendment to the ILO Constitution, which authorized the abrogation or withdrawal of obsolete ILO Conventions and Recommendations, the Government member of Germany recalled that a ratification campaign had taken place already in 1998. Therefore, he considered that a new ratification campaign was not needed. However, if a decision in favour of a further ratification campaign were to be taken, his Government would explain its position in a published document in order to serve as a point of reference for other member States not to ratify this amendment to the ILO Constitution. He pointed out that his Government was not at all against the abrogation of obsolete Conventions and Recommendations. However, it was his Government's position that the way it was proposed was doubtful from the point of view of international law.
101. The Employer members thought that it was appropriate and justified to carry out a campaign for the ratification of the 1997 amendment to the ILO Constitution. Therefore, they welcomed the announcement of the representative of the Secretary-General that such a campaign would be carried out. With reference to the position of the reservations of the German Government they recalled that, although ILO Conventions were treaties, they were adopted in the particular framework of the ILO in a way that closely resembled the adoption of legislation, i.e. by vote in the Conference plenary. Other treaties were concluded between governments whereas international labour standards were adopted at the Conference on the basis of tripartite discussions. Therefore, the question of the abrogation of international labour standards had to be seen in a different light. The Conference, as the adopting body, should have the competence to abrogate legislation adopted by it.

Application of the Employment Policy Convention, 1964 (No. 122)

102. The Worker members recalled that the Employment Policy Convention, 1964 (No. 122), was a means for improving the situation of all workers in all types and categories of work. It further provided a global approach to addressing the situation of workers who had specific difficulties in finding employment which was secure and stable and which offered good conditions and remuneration. More than half the member States (92 countries) had ratified Convention No. 122, which testified to its importance. It was nonetheless regrettable that 83 member States had not yet ratified this important priority Convention.
103. In relation to the application of [Convention No. 122](#), they noted the importance of policies adopted by support and assistance services for unemployed workers, notably in the field of education and vocational training. Basic education for all was essential to allowing all persons without distinction to access opportunities in the labour market. Training and education of workers was also decisive in allowing them not only to keep their jobs, but also to develop themselves at a professional level. However, education had a much larger role to play than just preparing workers for their professional life; it was also essential for the development of every child's personality, and it therefore played a central role in the fight against child labour. It was for this reason that the Worker members deplored the current trend of treating education as a commercial product, subject to the neo-liberal policies advocated by international organizations such as the World Trade Organization, the International Monetary Fund and the World Bank.

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- 104.** The Worker members drew attention to the role that working time played in the promotion of employment and development of the well-being of workers. If the conditions of work were getting increasingly flexible, such flexibility too often remained unilateral and was being achieved to the detriment of workers. In these circumstances, if the economy and the functioning of enterprises experienced change, the hours of work still needed to be regulated.
- 105.** The Employer members recalled that [Convention No. 122](#), which required a policy to promote full, productive and freely chosen employment, set out objectives but not specific measures to be taken. Successful measures could be very different among the member States, and this had consequences for supervision. In these circumstances it was correct that the observations of the Committee of Experts, in large part, contained information about what was being done concerning employment without giving an evaluation. As far as they contained evaluations, the Employer members did not always agree with this approach. For example, an active labour market policy as such did not deserve a positive mark. An evaluation of these policies should depend upon their specific content. It was important to create effective incentives to accept or create employment. The reduction of unemployment benefits could also create incentives, particularly if these benefits were allocated without any differentiation. Strengthening incentives to find work was an approach that had often proved successful. It was clearly important to have efficient public and private placement agencies collaborating in a good manner. However, according to the Employer members, the provisions found in the Private Employment Agencies Convention, 1997 ([No. 181](#)), gave rise to problems in relation to financing of private placement agencies.
- 106.** The Employer members supported the positive references made in paragraph 66 of the report concerning the importance of education and training. The proper qualification of workers was a crucial step to solving many problems in the labour market. Therefore, education and training had a far-reaching dimension. It was not an exaggeration to say that education was the new social question of this century.
- 107.** The Employer members shared the Committee of Experts' concern expressed in paragraph 67 against rigid working-time concepts. In their view, it was wrong to see the solution of problems solely in working time reduction. This was the expression of a very old and incorrect concept that there was a fixed amount of work that only needed to be divided correctly. What was needed in terms of labour market policy was a high degree of flexibility on all questions concerning working time. With the exception of limits on the grounds of stringent health reasons, rigid working-time regulations were always detrimental and would benefit neither workers nor employers.
- 108.** Several Government members (Belgium, China, Italy) emphasized the importance of [Convention No. 122](#) and its ratification. In the implementation of a national employment policy, the role of employment agencies and support services was emphasized (China, Italy). The Government member of China indicated that his Government had taken measures to readjust the economy and that checking unemployment had become an objective of macroeconomic policy. Active labour market policies and the use of public and private employment agencies were aimed at providing new jobs to workers in order for them to benefit from the current economic policy. The Government member of Italy indicated that the modernization of public employment services, the simplification of placement procedures and the maximizing of the efficiency of these services by applying a model in which public and private employment services collaborated, constituted a priority in his country. His Government also wished to adopt other measures, such as the revision and rationalization of labour relations, through placement, continued training and the help of training activities in enterprises, with special emphasis on apprenticeship. With

reference to categories of workers, such as women, youth, older workers and disabled persons, his Government wished to encourage part-time work to increase the rate of participation of women, youth and older persons in the labour market. New legislation against discrimination had been adopted to facilitate placement of disabled workers through a support service enabling their insertion and integration into the world of work. The Government member of Belgium signalled his Government's attention to the employment of young and older workers, and underscored the point that the objective of equality between men and women should be integral to employment policies.

- 109.** Several speakers underlined the close relationship between employment policy and human resource development (the Government members of Lebanon, and the Worker members of France and Pakistan). The Government member of Lebanon requested the ILO to adopt a code of practice in order to facilitate attaining the common objectives of Convention No. 122 and the Human Resources Development Convention, 1975 (No. 142). Perhaps this would help address the question as to how employment could be promoted in the context of structural adjustment and economic reform and the technological revolution.
- 110.** The Government members of China and Egypt stressed the importance of addressing the problem of unemployment. The Government member of Egypt noted that unemployment also affected highly developed countries. She pointed out that it was difficult to reduce unemployment while improving competitiveness. Many partners were involved in the creation of employment: for example, in her country, 47,000 jobs in modern technologies had been created in the private sector through training centres. A social insurance fund had been created and measures had been taken to improve productivity and create over 400,000 jobs. Important measures also had been taken to ensure the social protection of informal sector workers in her country.
- 111.** Several Worker members (Colombia, France and Pakistan) expressed concern over the suffering of workers due to the lack of appropriate employment policies, high unemployment, and increases in precarious employment, temporary employment and work in the informal sector. A Worker member of Colombia pointed out that such phenomena involve anti-union consequences, since they result in denying workers in these situations the right to organize, to submit their claims or to go on strike. The Worker member of Pakistan underlined the link between employment, decent work, the fight against poverty and the need for social protection and considered that the International Monetary Fund and the World Bank were undermining efforts to address these issues. Pointing to the situation of Argentina, he indicated that there are a number of other heavily indebted countries in Africa, Asia and Latin America in similar situations facing demands for deregulation, structural adjustment and the growth of contract labour. He urged debt relief, fairer trade, best practice training and education, an information technology "Marshall Plan" to limit the digital divide, and honouring the commitment of the developed countries to allocate 0.7 per cent of their GNP as official assistance to developing countries. Special targeting was required to review the situation in the rural sector as well as that of women, children and those in the informal sector. A Worker member of France stressed that the concept of freely chosen full employment should remain an essential objective for governments. Active policies – training, individual follow-up – were more appropriate than policies of economic repression, which could only lead to precariousness and social exclusion. Workers were not responsible for unemployment and for the strategic choices of enterprises. These choices, such as the delocalization of production, generated a social cost for which enterprises should be responsible. In his country, following a slight improvement, the unemployment rate experienced a disturbing increase this year, accompanied by an increase in work flexibility and precariousness and a calling into question of social benefits.

Technical assistance relating to standards

- 112.** The Worker members, as in previous years, expressed their support for ILO activities that reinforced the application of international labour standards. It was necessary to invest in technical assistance in the field of standards since the contents of international labour standards and the supervisory system were not sufficiently well known in all countries. They highly welcomed the efforts made to improve the access and user-friendliness of the electronic media, notably the NATLEX and ILOLEX databases, as they usefully supported the important work of the multidisciplinary teams (MDTs).
- 113.** The Employer members considered the measures outlined in paragraphs 75-83 of the report concerning technical assistance in the field of standards to be useful and relevant. They underlined, as in previous years, that the work carried out by the multidisciplinary teams was often marked by a specific personal commitment on the part of the ILO staff.
- 114.** The Government members of Belgium, Italy, Kenya, Lebanon, and Norway (speaking on behalf of the five Nordic Government members of the Committee) emphasized the importance of ILO technical assistance in the application and promotion of international labour standards accomplished by the ILO at its headquarters and through the international labour specialists of multidisciplinary teams and of the International Training Centre in Turin. The Government member of Norway also expressed the opinion that the role of standards advisers in the field could be strengthened. The Government member of Kenya welcomed several ILO missions, regional and subregional seminars, symposia, advisory missions, and training courses on standards and standards-related subjects during 2001. His Government was currently benefiting from assistance with its labour law revision. MDT standard specialists assisted the member States in fulfilling their standards-related obligations and ensuring that all due consultations do take place among governments, employers and workers. The Government member of Lebanon thanked IPEC for its activities pertaining to the elimination of child labour in her country. She also welcomed the Arabic version of international labour standards on the ILO web site.
- 115.** Concerning requests for ILO technical assistance, the Government member of Fiji referred to new obligations undertaken by the recent ratification of Conventions and the need for technical assistance to review national laws and practices in order to ensure full compliance with the standards. The Government member of Lebanon hoped that the role of the regional offices would be strengthened, especially at the level of the technical cooperation projects, to enable countries to fight poverty and to create employment, more particularly for young persons, older workers and those in the informal sector. Assistance was needed to prepare such projects. The Government member of the United Republic of Tanzania requested assistance from the ILO in labour law revision.
- 116.** The Worker member of Pakistan pointed out the importance of institutional infrastructure building, training for both men and women, seminars, advisory services from the multidisciplinary teams, assistance missions and similar activities. Such activities should address export processing zones where respect for basic labour rights had to be promoted.
- 117.** The representative of the Secretary-General emphasized the importance of the general discussion and the relevance of a tripartite exchange of views concerning fundamental and current issues related to the Organization's standards-related activities. Regarding the examination of the working methods of the Conference, he recalled that an informal exploratory consultation meeting had been held (see paragraphs 27-29 above). In reply to the Employer members' question whether the Committee of Experts followed an established procedure in the examination of comments by employers' and workers' organizations submitted directly to the Office, he made three points. Firstly, employers'

and workers' organizations could transmit their comments directly to the Office or with the report of the government. Secondly, in conformity with the established practice of the Committee, comments received separately were communicated systematically to governments for comments. Finally, while waiting for the government's response, the Committee of Experts took note of the comments made by employers' and workers' organizations and invited the government to respond, but did not at this stage draw any conclusions. It was only once the government's response was received, or in the case where the government did not supply a response despite the opportunity to do so, that the Committee examined the substance of the comments received. Concerning questions raised by the Government member of Lebanon, he replied that the time between registration of the last ratification required for the entry into force of a Convention and its effective entry into force was decided by the Conference during the adoption of each Convention. Concerning the number of experts sitting in the Committee of Experts, one should recall firstly that the members of the Committee of Experts were appointed by the Governing Body upon nomination by the Director-General. These appointments were made in a personal capacity, among impartial persons having the technical competencies and independence required. These principles stemmed from the resolution setting up the Committee and the consistent practice followed by the Governing Body for the appointment of the aforementioned experts. By decision of the Governing Body, the number of experts had increased since 1926 and was presently established at 20.

C. Reports requested under article 19 of the Constitution

Dock Work Convention (No. 137) and Recommendation (No. 145), 1973

118. The Committee devoted part of its general discussion to the examination of the first General Survey made by the Committee of Experts on the application of the Dock Work Convention (No. 137) and Recommendation (No. 145), 1973. 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 governments' reports were communicated in accordance with article 23(2) of the ILO Constitution.

General observations

119. The Employer members commended the Committee of Experts for the General Survey on [Convention No. 137](#) and [Recommendation No. 145](#). While General Surveys tend to be tedious, the first part of this survey read much like a well-written novel in which the reader could not wait to get to the next page because of the dramatic changes taking place. However, the Employer members were troubled by the use of mandatory words such as "must" or "prescribe" to clarify the provisions of the instruments, keeping in mind that the Convention was a general set of principles and that the Recommendation was far more detailed and lengthy. These instruments could only suggest alternative means of implementation within a wide range of actions. It was also striking that the Committee of Experts referred to the Preamble of the instruments as providing guidelines for action. Finally, in the chapter dealing with the provisions of the Convention and the Recommendation, the focus was mainly on the Recommendation, highlighting the generality of the Convention itself.

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- 120.** The Employer members pointed out that much of the content of the Convention and Recommendation was covered in more general Conventions on such issues as social security, safety and health, working time, freedom of association, collective bargaining and remuneration. This raised questions regarding whether there in fact needed to be a specific Convention related to dock work. As indicated in the General Survey, the casual nature of employment, which was the main driving force for the dock work Convention, was rapidly disappearing.
- 121.** The Worker members expressed their gratitude to the Committee of Experts for the General Survey, which provided a general picture of dock work. The survey was clear and well structured and took into account not only the changes which had taken place in this sector, but also the internal discussions in the Office concerning the future of the international labour standards under examination. In fact, [Convention No. 137](#) and [Recommendation No. 145](#) were, according to the classification of the Working Party on Policy regarding the Revision of Standards, among the standards on which more information should be provided. The discussion in the Committee could provide a better understanding of these standards and a better view of their future.
- 122.** The Worker members also noted with interest that 92 member States had provided reports concerning these instruments. The replies received should provide a solid foundation for an in-depth study of this matter. It was to be regretted, however, that only 15 organizations of employers and workers had provided comments. In practice, governments had not always consulted national trade unions and some of them had not even been aware of this survey. The Worker members hoped that in future, the Office would make greater efforts to encourage workers' organizations to make their observations and would ensure that governments facilitated their participation.
- 123.** The Worker members felt it was important to recall that work in ports was also covered by a large number of other ILO instruments, including the fundamental Conventions covered by the Declaration of 1998, as well as other Conventions and Recommendations of general application such as the instruments on tripartite consultation, employment policy, social security, and occupational safety. Finally, other standards specifically covered safety and health in ports.
- 124.** The observer representing the International Transport Workers' Federation commended the Committee of Experts on producing so much valuable information on the subject of dock work. While it was rare in the industry to have such a useful compilation of information, the survey contained certain inaccuracies such as the indication that in many countries in which the Convention had not been ratified, its principles had been taken up in working practices. He also expressed disappointment at the almost total lack of action in response to the conclusions of the 1996 Tripartite Meeting on the Port Industry calling for further research, workshops and other action to promote the ratification and application of the Convention. The ILO should assist governments to use [Convention No. 137](#) much more effectively and to gain a better understanding of the inherent flexibility of the instrument.

The changing context of dock work

- 125.** The Employer members noted that the General Survey provided a striking picture of globalization, technology and rapid change that affected all kinds of work in the global economy. Profound changes in cargo-handling methods were accelerating port operations, reducing the cost of loading and unloading goods, speeding the turnaround time of ships in port and substantially reducing the physical effort in handling cargo. All of these changes, which were continuing at the present time on a widespread basis, were leading to fewer employment opportunities for dockworkers. The General Survey showed that use of ports

was driven by the services and infrastructure that could be provided. Ports were constantly upgrading and competing with other ports. Consumers around the world were “global shoppers” who bought goods and services based on quality and price without regard to the country of their origin. This was a phenomenon beyond regulation. The closest that workers and employers could come to achieving customer security was to satisfy customer needs fully over the long term. Those needs and preferences were constantly changing, and a business providing goods and services to meet those needs had to be able to anticipate change and restructure itself accordingly. Employment security depended on many factors. No government, company or union could realistically guarantee employment for life, increasing wages or upward mobility.

- 126.** The Employer members noted that the General Survey highlighted three fundamental economic realities of dock work, in addition to the issue of job security. The first economic reality for all workplaces since the 1960s was that change was constant. The competitiveness of products, services and the jobs based on them no longer depended solely on cost, quality and innovation. Customization, serviceability and speed were the keys to competitiveness and job creation, driven by the rapid diffusion of technology and information. Moreover, if a central feature of dock work was that change was constant, the second must be that the changes now taking place were more rapid than at any time in history. As noted in paragraph 227 of the General Survey, dock work had continued to undergo change with the pace accelerating since the beginning of the 1990s. The third economic reality was that economic nationalities were increasingly blurred. Companies, industries, products, technologies and jobs no longer depended upon the strengths and weaknesses of any one nation’s economy or economic base. Those companies and countries that succeeded in the new global marketplace would utilize the strengths of many nations to offset any weaknesses at home. As pointed out in paragraphs 16 and 17 of the General Survey, the situation in the maritime industry was characterized by the creation of integrated global chains, and by mergers and alliances of maritime carriers. Port operators had become global players. The trend was characterized by the pursuit of increased market share to such an extent that small ports were driven to seek strategic partners as a means of entering or forming regional or global alliances. Worldwide strategic alliances between companies were increasingly the norm in order to share the risks of new product development and to expand marketing power in highly competitive markets. At the same time, for example, the economic advantage of containerization was levelling the playing field between developed and developing countries, highlighting the value of foreign direct investment in economic development.
- 127.** The Worker members noted that much of the General Survey addressed the question of developments in port activities and the employment and conditions of work of dockworkers. Several essential elements of these developments were particularly important because of their social effects, especially the technological changes, the mergers and alliances of maritime carriers, the decreased participation of the public authorities, and privatization. There was not only the decrease of physical work, but also the decline in the amount of work and the threat of loss of employment. The conditions of work were becoming more and more flexible in terms of working time, the type of work and the duties entrusted to dockworkers. Finally, the wave of deregulation and privatization had negative effects on employment protection and wage levels.
- 128.** The Worker members regretted that the General Survey did not adequately emphasize the way in which certain governments wished to undermine the status of workers in ports under the pretext of free competition and the liberalization of markets. It was being indicated to workers, for instance, when they demanded guarantees in the process of discussion of a new European Union directive on the “port package”, that the situation would be as beneficial for enterprises as for consumers and workers. The representative

workers' organizations were opposed to the proposed directive because such measures had negative consequences for the dockworkers as concerned their status, employment, safety and health. Regulation which aimed to "liberalize ports" always had the effect of eliminating a certain number of jobs, rendering employment more precarious and lessening the importance for employers of the rules on safety and health.

- 129.** Several Worker members also referred to the discussions taking place at the European Union level relating to port work. The Worker member of the Netherlands recalled that seven member States of the European Union had ratified [Convention No. 137](#). He indicated that the proposals on a directive dealing with work in the ports of the European Union contained a strong element of liberalization, but also recognized that social aspects were important. The European Commission should consult all member States with a view to developing a common position in this respect based on the minimum social standards set out in the Convention. The Worker member of Norway expressed concern about the proposals which would allow the practice of self-handling, which ran counter to the principles set out in the Convention. The seven member States of the European Union which had ratified the Convention should act to ensure that this particular initiative went no further. A Worker member of France, whose remarks were also supported by the Worker member of Sweden, stressed that training in new technologies and the protection of the stability of employment of workers were topical subjects and collective bargaining had an important role to play in this respect. He stated that the Workers were opposed to the draft European directive on the liberalization of port services, which encouraged self-handling and imposed competition, under the pretext of ideological considerations. This proposal for a European directive ignored the real situation with regard to dock work and ran the risk of creating greater instability, in violation of [Convention No. 137](#), which provided for the stability of employment of dockworkers.

The objectives of [Convention No. 137](#) and [Recommendation No. 145](#) in this context

- 130.** The Employer members were of the view that devising a universal dock work standard was difficult since the diversity of port organizational models reinforced the position that only general principles on the port industry were possible. Moreover, there existed a great variety of definitions of dock work. In this regard, the Employer members welcomed the common-sense view in paragraph 101 of the General Survey that Article 1 of the Convention should not be interpreted as requiring member States to define the terms "dockworker" and "dock work" in law. In fact, since their adoption, [Convention No. 137](#) and [Recommendation No. 145](#) had not been appropriate because they dealt with a minority of the world's workers. To date, the Committee of Experts was only able to estimate the number of ports in the world and was unable even to guess the number of dockworkers worldwide. [Convention No. 137](#) and [Recommendation No. 145](#) were the product of an earlier era of managed economies. Because they were not market based, these instruments had proven to be a disaster. [Convention No. 137](#) was an attempt to counterbalance the cost savings and productivity improvements created by the efficiencies of technological change through permanent employment and guaranteed incomes in an industry in which the work was episodic.
- 131.** The Employer members considered that [Convention No. 137](#) was aimed at limiting the supply of workers through a system of registration to control the flow of new entrants. Yet, the weakness of the system of registration set out in the Convention was precisely to assume stable employment levels. Furthermore, by indicating in paragraph 162 of the General Survey that, even if dockworkers still worked well in excess of normal hours in the course of the same day or week, the casual nature of their work did not in any way justify unduly prolonged hours of work, the Committee of Experts seemed to be calling for

employment to be guaranteed while not permitting periods of extended hours of work even if the circumstances called for them. This view seemed unrealistic in a global, competitive world. The Employer members noted that the Committee of Experts had pointed out that, for many countries, several aspects of the instruments might have lost their relevance. In a growing number of countries, jobs and income were being provided to dockworkers on the same terms as were applicable to other workers in terms of placement, vocational training, working time, wages and social security, among others. Against these facts, the Employer members were struck by the Committee of Experts' assertion that [Convention No. 137](#) and [Recommendation No. 145](#) continued to be relevant.

- 132.** The Worker members referred to the final remarks of the General Survey and recalled the two main objectives of the instruments, that is to afford protection to dockworkers in their professional life through measures relating to the conditions of their access to and performance of work, and to develop a contingency policy to reconcile employment with the needs of the enterprise. The Worker members pointed out that the Committee of Experts in its General Survey had considered registers as an indispensable tool for providing the protection afforded by the instruments. The Committee of Experts also had expressed regret that it had not been able to gain a better picture of the establishment of registers and the adaptation of the workforce to the needs of ports. This shortcoming had little to do with lack of information or technical reasons but was mainly related to the absence of political will to develop the appropriate regulations or to assume responsibility.
- 133.** The observer representing the International Transport Workers' Federation emphasized that [Convention No. 137](#) placed an obligation upon trade unions to consider the introduction of new technology. The provisions of the Convention provided for ways of reducing the workforce and adapting to new technology, and therefore promoted precisely the aspects that the Employer members were seeking, namely adaptation to the needs of clients. The instruments also promoted stability of employment of workers, which was a vital factor in developing stable labour relations and therefore in attracting investors and port users. The provisions of [Convention No. 137](#) and [Recommendation No. 145](#) encouraged social dialogue in the industry for the improvement of the services provided.
- 134.** The Government member of France pointed out that the General Survey reaffirmed two fundamental objectives of [Convention No. 137](#), namely the absorption of precarious employment and the improvement of training and security. The objective of reabsorption of precarious employment, which obliges national policy to pursue the absorption of casual or intermittent dockworkers, absolutely had to be maintained. It was of particular importance that States cease to act as institutional partners in managing the employment of non-permanent and casual dockworkers who did not have a contractual relationship with the company, thereby helping to perpetuate a certain form of precarious employment. The end of instability of employment of dockworkers, which was due more to historical reasons than to functional necessity, required the integration of jobs into contractual structures under the normal law, that is to say by contracts without limit of time with enterprises specializing in cargo handling. The regulation of contractual relations with the enterprise would lead to the disappearance of semantic differences related to the definition of "dockworkers" such as the criteria related to the permanent nature of employment, by using the phrase "those who receive their principal annual revenue from this work". This did not in any way constitute deregulation, but rather the integration of cargo-handling activities under the general law. It was intended to replace all discriminatory practices by general rules while ensuring that the new regulations did not result in the reduction of jobs, but rather in retraining adapted to the technical reality of ports. This development should result in States incorporating into their legislation practices relating to priority of employment, which consisted of discriminatory employment practices in recruitment, and

was often left to the discretion of States, or even individual ports, thereby preventing any form of transparency in this fundamental area of port operations.

- 135.** The Government member of India indicated that the provisions of the Convention and Recommendation were based on the recognition of the fact that changes in technology and trends in cargo movement and handling would have repercussions on the employment of dockworkers in terms of their numbers, skills requirements, remuneration and conditions of employment. Therefore, measures would have to be taken to reduce their detrimental effect on labour. The Government member of Lebanon referred to the clauses of the Convention providing for provisional minimum periods of employment and a minimum income for cargo-handling workers in a manner depending on the socio-economic situation of the country concerned. Referring also to specific paragraphs of the Recommendation, in particular those relating to the unemployment benefit, which existed in her country only for disabled persons under certain conditions, she questioned whether a country was obliged to apply such minimum standards, especially where such guarantees were not applied in other economic sectors.
- 136.** The Employer and Worker members of the Committee addressed in their observations the question of registration of dockworkers. The Employer members recalled that, as indicated in paragraph 233 of the General Survey, many countries did not have any form of registers. The Committee of Experts considered that this might be due to a lack of awareness of the flexibility contained in the Convention. The Employer members believed that it might be instead that registers were a historical artefact which were no longer necessary as dock work increasingly resembled any other skilled work in other sectors. The Worker members considered that registers remained an indispensable tool for providing the protection afforded by these instruments. However, it was also necessary to address employment distribution in a policy.
- 137.** The Government member of France stated that registration no longer had any meaning when permanent employment was ensured, which was the principle adopted by the French Parliament in 1992. However, the disappearance of this notion of registration, the justification for which was particularly ambiguous and depended on vague national criteria, some of which were contrary to the principle of the free movement of workers, had to be replaced by objective professional qualification criteria recognized by an international standard. This was all the more important since cargo handling had become a task requiring greater qualifications in view of the development of handling techniques, based on increasingly expensive machinery. As to improvements in training and safety, the training needs would be considerable.
- 138.** Regarding another point dealt with in the Convention and the Recommendation, the Employer and Worker members stressed the need for providing training to dockworkers. The Employer members indicated that in the twenty-first century learning and training represented essential conditions for ensuring employability and improving living standards. A basic economic reality in today's world was that employment security required lifetime learning and could not be assured by employment policies and international labour standards. Technology, changing customer preferences and the global marketplace required a more highly educated workforce whose skills could adapt to rapidly changing markets. Work in the twenty-first century, including dock work, required constant learning, adaptation and the acquisition of new skills to keep pace with emerging new technologies, new methods of operation and new forms of workplace organization that placed more responsibility on individuals at all levels of an organization. The Worker members stressed that new technologies required qualified and well-trained dockworkers, which had not been the case in the past and which was still not the case in a number of countries.

139. The Government member of Italy underlined the importance of training for the proper functioning of every modern port and workers' own security. Training programmes were particularly essential in the context of important structural adjustments, since they could also assure better mobility in the labour market. The Government member of the United Kingdom stated that his country shared the concern expressed in the General Survey regarding the need for adequate training for dockworkers, particularly for "non-permanent employees" in the industry. The competent authority on safety and training matters in his country was currently considering the establishment of a Sector Skills Council. Other initiatives were undertaken in partnership with the government departments and agencies concerned, such as those for the reduction of accidents or the introduction of a professional card certifying that the holder had received basic health and safety instructions. In the opinion of the observer representing the International Transport Workers' Federation, instead of ideological criticisms of regulations, it would be better to look more closely at ways of promoting the multiskilling of workers so that they were sufficiently qualified to respond to the demands made upon them. The continued and lifelong training of workers required a commitment to the workforce.

National practices

140. Several members of the Committee provided information on the situation relating to dock work in their countries. The Government member of France recalled that Convention No. 137 had been ratified in 1977 by France and emphasized that dock work had changed considerably since then, as had the laws and regulations of member States which had ratified the Convention. In France, the system of dock work had been substantially modified by an Act adopted in 1992 which opened the way for the partial application of general labour legislation to dockworkers by setting out the principle of monthly employment based on an indefinite labour contract in a handling company in the private sector, and the application of the provisions of the Labour Code and the Code on Social Security. A national collective agreement on handling had been signed by all the workers' and employers' organizations in April 1994 and work on improving this agreement was still ongoing in close collaboration between the social partners. The Government member of the Netherlands stated that her country had ratified Convention No. 137 and had encouraged the social partners to implement its provisions by way of negotiation and conclusion of collective agreements. Referring to the intervention of the Worker member of the Netherlands who had expressed concern about the unilateral decision of the employers to stop carrying out the registration of dockworkers, the speaker noted that this issue had been the subject of several meetings between the Government and the social partners. A report on the application of the Convention and the Recommendation would be submitted to the Office this year. The Government member of Italy recalled that his country had also ratified the Convention. He recognized the importance of social dialogue as an indispensable prerequisite for dealing efficiently with the changes occurring in the port industry. The privatization and liberalization of the labour market carried out in the dock sector entailed many difficulties. In this period of transition, the Government was acting as a dynamic mediator between the social partners. The liberalization of the labour market should not slow down the revision of standards on occupational safety and health.

141. The Government member of Egypt underlined the importance of the Convention and the Recommendation for his country in the light of Egypt's very important maritime activities. These instruments were applied by means of national laws and works regulations of cargo-handling enterprises. As a general rule, dockworkers enjoyed the same conditions of work as other categories of workers. The Government member of Lebanon indicated that in her country dockworkers enjoyed employment and working conditions specified under the Labour Code and the recently adopted privatization law. The Government member of India indicated the legislative and regulatory texts governing the safety and welfare of

dockworkers in his country. He also specified the authorities responsible for supervising the application of national laws and regulations in the major ports of the country, standards on safety and health and training of dockworkers. Efforts were made to ensure the introduction of modern technology in ports and that the changes introduced in cargo-handling methods did not prove detrimental to working conditions in ports. The Government member of the United Kingdom supported the main objectives of the Convention and the Recommendation. While the Convention had not been ratified by his country, many of the principles contained therein were implemented in practice. A national code of practice on safety in docks was being reviewed in consultation with the Office.

- 142.** The Government member of Germany observed that, even though his country was listed among those whose national legislation did not provide for a definition of the term “dock work” and “dockworkers”, the four main ports in Germany (Hamburg, Bremen, Bremerhaven and Rostock) had established General Port Enterprises whose by-laws contained such definitions. In addition, while the General Survey was correct in stating that in general there was no requirement to register as a dockworker in Germany, this did not hold true for the General Port Enterprises in the four ports mentioned above, where the registration of workers was a prerequisite to working in ports.
- 143.** The Worker member of Norway stated that the instruments under consideration were important for the system of port work in Finland, Norway and Sweden, which had ratified the Convention. Although no specific legislation had been adopted in his own country, the Convention was applied, as permitted by its provisions, through collective agreements. He added that it was difficult to imagine that such collective agreements could have been concluded in the present situation if the Convention had not existed. He referred to a Supreme Court case in his country which had upheld the validity of the Convention. The Worker member of Iraq emphasized the economic role of ports and dockworkers in coastal countries, where ports were an important channel for imports and exports. He recalled that the workers of Iraq, especially the dockworkers, lived in dire conditions due to the economic embargo and the no-fly zone which had been imposed on the country. He pointed out that his country had ratified [Convention No. 137](#) and that workers needed retraining on modern methods of cargo handling. The Worker member of Uruguay referred to a tripartite programme of the ILO which had been completed in the port sector and which should contribute to maintaining the dignity of workers and promote the principle of collective bargaining, which was not respected today in the country.

Prospects

- 144.** The Worker members and the Government members who took the floor on this question emphasized the continued relevance of the Convention and the Recommendation even in the changing context of the port sector. They stressed the need for a ratification campaign in favour of the Convention. In the opinion of the observer representing the International Transport Workers’ Federation, a greater effort was needed to put [Convention No. 137](#) to good use and ensure that it was more widely understood. He regretted that the Employer members appeared to be painting a picture of a Convention that they claimed was both inflexible and obsolete. The national practice in certain countries refuted this contention. The Government member of Lebanon pointed out that a study would be undertaken by the Ministry of Labour in consultation with employers’ and workers’ organizations so as to decide on the position to be adopted on the provisions of the Convention in the light of national conditions and the requirements of cargo-handling operations in national ports. She added that the ratification of the Occupational Safety and Health (Dock Work) Convention, 1979 ([No. 152](#)), was currently being examined. The Worker member of Senegal noted that only 22 States had ratified Convention No. 137 to date, thus raising the question whether governments wanted to offer real protection to dockworkers. The

flexibility afforded by the Convention was still little known. Privatization had caused damage, which rendered all the more necessary the protection of dockworkers, which could be provided through specific regulation. A promotional campaign for the ratification of the Convention was advisable.

- 145.** The Government member of Italy, concurring with the view expressed by the Government member of India, observed with regard to the relevance of [Convention No. 137](#) that the small number of ratifications of the Convention could not at all justify its revision. Keeping in mind the Committee of Experts' conclusions concerning the scope and flexibility of the Convention, the Office should launch a campaign to promote its ratification and application and to provide technical assistance to this end. The Worker member of Uruguay refuted the remarks made by certain speakers concerning the Convention's obsolescence and the need to revise it. He was in favour of the proposed ratification campaign and also expressed support for the idea of a general discussion based on an integrated approach which could embrace the conditions of work, occupational safety and health and other issues related to dock work.
- 146.** The Employer members laid great emphasis on the fact that permanent employment and guaranteed income were not viable in a global economy in which technology was changing rapidly. This was highlighted by the fact that just 22 countries had ratified the Convention after 30 years. In paragraph 220, the General Survey concluded that the prospects for future ratifications were low, particularly because the majority of governments had provided no indication on ratification intentions. The low level of ratification of the Convention was illustrative of a problem that was endemic across most technical Conventions adopted by the ILO over the last 30 years. There was clearly no connection between voting for the adoption of ILO Conventions and the actual commitment of governments to ratifying them.
- 147.** The Employer members welcomed the discussion, which had generated a great deal of participation. They strongly believed that international labour standards, and in particular Conventions, should be "high impact" standards that sought to address fundamental workplace issues on which there was a broad consensus on applicable policies or principles. The Convention on the Elimination of the Worst Forms of Child Labour, 1999 ([No. 182](#)), which had the fastest rate of ratification in the ILO's history offered a good example. Standard-setting was not the answer to every workplace issue. In assessing the appropriateness of standard-setting, account should be taken of criteria such as the suitability of a given topic for regulation, the prospects of ratification, its utility as a benchmark, and the extent of consensus. The dock work instruments under review failed these tests, as would a revised set of instruments. The General Survey had clearly demonstrated that dock work should be addressed under other ILO instruments of broader applicability.
- 148.** The Employer members considered that there was agreement on the accelerating technological changes that were taking place in the field of dock work. The disagreement concerned the viability of [Convention No. 137](#) today. The main argument which had been put forward in favour of a "specific" dock work Convention was that legislation was needed to ensure quality work, to build infrastructure and ensure stable labour relations. Yet most countries with ports had accomplished these objectives without ratifying the Convention. This said something about the regulatory benefit of the instruments under examination. Numerous comments had been made on the flexibility of the Convention. In the opinion of the Employer members, however, the question of flexibility was irrelevant since the Convention had a totally impracticable purpose, that is to attempt to guarantee employment and provide stable income to a few workers in the environment of rapid technological change that characterized the port industry. Although it was the tradition to

have some disagreement on different aspects of a General Survey, the Employer members were astonished by the degree to which some Worker members disagreed with the overall direction of the General Survey, particularly the reflection on the dynamic market-based changes taking place. As the Employer members had said during the general discussion, the Secretary-General of the International Confederation of Free Trade Unions had spoken at the General Council of the International Organization of Employers in June about the need for a strategic partnership between the Workers' and Employers' groups. Perhaps such a partnership could be established relative to the experts' views on the meaning, purpose and scope of ILO Conventions. The survey was clear that dock work was increasingly becoming like other work requiring multiskilling and ongoing learning. It was also clear that governments saw no need to ratify the Convention because it was increasingly not applicable to such circumstances. Overall, the survey supported the Employer members' view that the ILO should only adopt high-impact standards of general applicability on which there was a consensus in order to give them a greater prospect of ratification.

- 149.** The Worker members noted the low number of ratifications of the Convention, even considering the number of countries where there were no ports. Even though the Committee of Experts welcomed the fact that the principles contained in the instruments were implemented in practice, even where the Convention had not been ratified, the Worker members wondered why the member States whose legislation and practice were in conformity with the Convention did not ratify it. The General Survey offered some conclusions, however. It was necessary to recognize the crucial role of the ports and their effective operation for the social and economic development at the regional or national level. Moreover, the profession of dockworker was so specific that it was always necessary to have specific regulations both at the national level and at the level of the ILO. The principles laid down in the Convention and the Recommendation were still relevant and had to be borne in mind today in regions affected by waves of liberalization and privatization. Finally, the International Labour Organization and the Office should conduct a campaign to promote the ratification and application of the instruments in the field of dock work, and particularly, the Dock Work Convention, 1973 (No. 137). The continued relevance of the Convention could not be called into question. In this regard, any attempt to discuss the possibility of revising the instruments was not timely. It was because of a misunderstanding of these instruments that certain speakers among the Employers and the Governments considered them as too rigid. The Convention and the Recommendation under examination must be maintained, since they were essential for dockworkers in the whole world.

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 90 (failure to supply reports for the past two years or more on the application of ratified Conventions), 97 (failure to supply first reports on the application of ratified Conventions), 101 (failure to supply information in reply to comments made by the Committee of Experts), 135 (failure to submit instruments to the competent authorities), and 141 (failure to supply reports for the past five years on unratified Conventions,

Recommendations and Protocols) of the Committee of Experts' report to supply information to the Committee in a half-day sitting devoted to those cases.

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 5-7, 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 128) that considerable efforts to fulfil the submission obligation had been made in certain States, namely: **Honduras, Kenya, Lesotho** and the **Seychelles**.
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 1994 and 1999 by the 81st-87th Sessions of the Conference to the competent authorities, in the cases of **Afghanistan, Armenia, Bolivia, Cambodia, Cameroon, Comoros, Congo, Grenada, Haiti, Kazakhstan, Kyrgyzstan, Latvia, Sao Tome and Principe, Sierra Leone, Solomon Islands, Somalia, Suriname, Syrian Arab Republic, Turkmenistan** and **Uzbekistan**.

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 2001 meeting of the Committee of Experts, the percentage of reports received was 65.4 per cent, compared with 70.5 per cent for the 2000 meeting. Since then, further reports have been received, bringing the figure to 72.2 per cent (as compared with 76.6 per cent in June 2001, and 71.7 per cent in June 2000).

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 the past two years or more by the following States: **Afghanistan, Armenia, Denmark (Faeroe Islands), Equatorial Guinea, Kyrgyzstan, Sao Tome and Principe, Sierra Leone, Solomon Islands, The former Yugoslav Republic of Macedonia, Turkmenistan** and **Uzbekistan**.

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- 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); since 1998 – **Armenia** (Convention No. 174), **Equatorial Guinea** (Conventions Nos. 68, 92), **Mongolia** (Convention No. 135), **Uzbekistan** (Conventions Nos. 29, 100); since 1999 – **Turkmenistan** (Conventions Nos. 29, 87, 98, 100, 105, 111), **Uzbekistan** (Conventions Nos. 98, 105, 111, 135, 154); and since 2000 – **Chad** (Convention No. 151), **Fiji** (Conventions Nos. 144, 169), **Ireland** (Convention No. 172), **Mongolia** (Conventions Nos. 144, 155, 159). 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 32 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 437 cases (compared with 389 cases in December 2000). The Committee was informed that, since the meeting of the Committee of Experts, six 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 2001 from the following countries: **Afghanistan, Algeria, Bolivia, Costa Rica, Côte d'Ivoire, Denmark (Faeroe Islands), Dominica, Equatorial Guinea, Ethiopia, Fiji, France (French Guyana, Guadeloupe, New Caledonia, Réunion), Gabon, Grenada, Guatemala, Guinea, Haiti, Kyrgyzstan, Lao People's Democratic Republic, Liberia, Mongolia, Nepal, Netherlands (Aruba), Nigeria, Paraguay, Saint Vincent and the Grenadines, Sao Tome and Principe, Sierra Leone, Slovakia, Solomon Islands, Swaziland, Tajikistan, United Republic of Tanzania, The former Yugoslav Republic of Macedonia and Uganda.**
- 161.** The Committee noted the explanations provided by the governments of the following countries concerning difficulties encountered in discharging their obligations: **Algeria, Bosnia and Herzegovina, Cambodia, Cameroon, Costa Rica, Côte d'Ivoire, Democratic Republic of the Congo, Denmark (Faeroe Islands), Ethiopia, Fiji, France (French Guyana, Guadeloupe, New Caledonia, Réunion), Guatemala, Guinea-Bissau, Iceland, Ireland, Iraq, Netherlands (Aruba), Nigeria, Paraguay, Slovakia, Suriname, Swaziland, Syrian Arab Republic and United Republic of Tanzania.**
- 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 reporting arrangements approved by the Governing Body in November 1993, which came into operation from 1996, and the modification of these procedures adopted in March 2002 which come into force in 2003.

Supply of reports on unratified Conventions and on Recommendations

- 163.** The Committee noted that 163 of the 328 article 19 reports requested on the Dock Work Convention (No. 137) and Recommendation (No. 145), 1973, had been received at the

time of the Committee of Experts' meeting. This represents 49.7 per cent of the reports requested.

164. 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, Bosnia and Herzegovina, Equatorial Guinea, Fiji, Georgia, Grenada, Guinea, Guinea-Bissau, Iceland, Iraq, Lao People's Democratic Republic, Liberia, Nigeria, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Sao Tome and Principe, Sierra Leone, Solomon Islands, The former Yugoslav Republic of Macedonia, Turkmenistan and Uzbekistan.**

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

165. 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."

Application of ratified Conventions

166. 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 111 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 36 such cases, relating to 23 countries; 2,312 cases where the Committee has been led to express its satisfaction with progress achieved since the Committee of Experts began listing them in 1964. These results are tangible proof of the effectiveness of the supervisory system.
167. This year, the Committee of Experts listed in paragraph 113 measures ensuring better application of Conventions in which it has noted with interest in 139 instances in 80 countries.
168. 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.

Specific indications

169. The Government members of **Algeria, Cambodia, Cameroon, Costa Rica, Côte d'Ivoire, Democratic Republic of Congo, Ethiopia, Guatemala, Guinea-Bissau, Iceland, Iraq, Ireland, Nigeria, Paraguay, Slovakia, Swaziland, Syrian Arab Republic and United Republic of Tanzania** have promised to fulfil their reporting obligations as soon as possible.
170. The Government members of **Bosnia and Herzegovina, Cambodia, Cameroon, Democratic Republic of Congo and Nigeria** expressed their gratitude for the technical assistance provided by the Office. Further, the Government members of **Guatemala,**

Netherlands (Aruba), Nigeria, Swaziland and United Republic of Tanzania (Zanzibar) requested technical assistance or further technical assistance by the Office in order to better fulfil their reporting obligations.

Cases of progress

171. 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 sitting concerning the application by Myanmar of the Forced Labour Convention, 1930 (No. 29)

172. The Committee held a special sitting concerning the application by Myanmar of [Convention No. 29](#), in conformity with the resolution adopted by the Conference in 2000. A full record of the sitting appears in Part Three of this report.

Special cases

173. 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.

174. As regards the application by **Ethiopia of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)**, the Committee took note of the statement made by the Government representative and the discussion which ensued. The Committee noted that the Committee of Experts has, for several years now, been commenting upon serious discrepancies between the national legislation and the Convention. These matters concerned the right of workers, without distinction whatsoever, to form organizations of their own choosing and the right of these organizations to organize their activities without interference by the public authorities and not to be dissolved by administrative authority. While noting with concern that no concrete progress had been made on these points, the Committee welcomed the Government's desire to receive in-depth technical assistance in this regard, and made an urgent appeal to the Government to take measures urgently, so as to ensure full conformity with the provisions of the Convention. The Committee especially insisted that teachers' trade union rights be fully respected both in law and in practice. Welcoming the release of the trade union leader Dr. Taye Woldesmiat, the Committee nevertheless reminded the Government that respect for civil liberties was essential to the exercise of trade union rights. It expressed the firm hope that the Government would no longer have recourse to such grave measures as the detention of trade union leaders for the exercise of legitimate trade union activities. The Committee requested the Government to provide detailed information in its next report, in particular on any measures taken to give effect to the comments of the Committee of Experts and to transmit with its report any texts of draft legislation being considered. The Committee decided to place its conclusions in a special paragraph of its report.

175. As regards the application by **Sudan of the Forced Labour Convention, 1930 (No. 29)**, the Committee took note of the statement made by the Government representative and of the discussions which followed. It recalled that it had examined this case on several

occasions in recent years. The Committee shared the concern of the Committee of Experts regarding the practices of abduction, trafficking and forced labour affecting thousands of women and children, not only in the south of the country where there was armed conflict, but also in government-controlled areas. The Committee noted the information provided by the Government representative, including the information on the activities of the Committee for the Eradication of Abduction of Women and Children (CEAWC) set up in 1999, on the need for education and to raise the awareness of tribes on the financial resources allocated and the setting up of machinery to bring to trial newly denounced cases to be dealt with by public prosecutors of the Ministry of Justice. The Committee noted the willingness of the Government to collaborate with the various international institutions and the plan of action which the Government had formulated for the eradication of forced labour practices. The Committee took note of the concerns expressed by the members of the Committee, especially the fact that tradition could not render legitimate such serious violations of [Convention No. 29](#), and the refusal to accept a direct contacts mission. While taking into consideration the explanations provided by the Government representative, the Committee was nevertheless bound to observe that all the information provided by, inter alia, workers' organizations, the Special Rapporteur of the United Nations and the members of the Committee who had taken the floor, demonstrated the persistence of forced labour in Sudan and the inadequacy of the measures taken by the Government to combat this situation. The Committee noted in particular the lack of penalties imposed on those responsible. It urged the Government to take a stronger position in combating cases of forced labour resulting from abductions of women and children by clarifying its policy and giving it the necessary publicity. The Committee trusted that the Government would take urgent, effective and relevant measures to establish and strengthen machinery for prevention, identification and punishment. It took note of the Government's commitment to evaluate the situation and the results of the plan of action within a year, and expressed the firm hope that it would be able to note improvements in the action taken by the Government to combat forced labour in the near future. The Committee decided that its conclusions would be placed in a special paragraph of its report.

- 176.** 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 statement made by the Government representative and of the discussion which ensued. It also noted that a direct contacts mission went to Venezuela in May 2002 and it took note of the conclusions of the mission report. The Committee pointed out that the Committee of Experts had been making comments for many years concerning serious violations of the Convention. These important problems in application concerned, in particular, the right of workers and of employers to form organizations of their own choosing, as set forth in Article 2 of the Convention, the right of these organizations to elect their representatives in full freedom and their right to draw up their rules, as provided in Article 3. The Committee also observed with deep concern that, according to the report of the ILO mission, the authorities did not recognize the executive board of the Venezuelan Workers' Confederation (CTV) and that, as a result, there was no meaningful consultation with the social partners on the subjects that concerned them. Moreover, the Committee deplored that allegations of acts of violence committed with government backing had been presented to the ILO mission by workers' and employers' organizations. The Committee took note of the will expressed by the Government and the National Assembly to adjust the legislation to the requirements of the Convention and that a draft concerning some aspects of the Committee of Experts' comments had been prepared. The Committee made an urgent appeal to the Government to commence without delay an in-depth dialogue with all social partners without exclusion so that solutions could be found in the very near future to the serious problems of application of the Convention. Recalling that respect for civil liberties was essential to the exercise of trade union rights, the Committee urged the Government to take the necessary measures immediately so that workers' and employers'

organizations could fully exercise their rights recognized by the Convention in a climate of complete security. The Committee requested the Government to furnish a detailed report, including the texts of any new draft elaborated, so that the Committee of Experts could examine the situation once again at its next meeting. The Committee decided that its conclusions would be included in a special paragraph of its report. It also decided to mention this case as a case of continued failure to apply the Convention.

177. 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

178. 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 noted with great concern that there had been continued failure over several years to eliminate serious discrepancies in the application by **Sudan of the Forced Labour Convention, 1930 (No. 29)**, and by **Venezuela of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)**.

179. The Governments of the countries to which reference is made in paragraphs 174-176 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.

Participation in the work of the Committee

180. The Committee wished to express its gratitude to the 47 governments which collaborated by providing information on the situation in their countries and participating in the discussions of their individual cases.

181. 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: **Afghanistan, Armenia, Belarus, Bolivia, Congo, Equatorial Guinea, Gabon, Georgia, Guinea, Kazakhstan, Lao People's Democratic Republic, Latvia, Liberia, Mongolia, Nepal, Sierra Leone, Somalia, Tajikistan, The former Yugoslav Republic of Macedonia and Uganda**. 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.

182. The Committee regretted that **Belarus** did not participate in the discussion of individual cases on the application by **Belarus of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)**, though the Government delegation was accredited to the Conference. The Worker members noted with very serious concern the Chairperson's statement concerning the absence of the Government of Belarus. By refusing to appear before the Committee, the Government was not only de facto preventing it from examining one of the most serious cases listed on the agenda of the current session of the Committee. It was also reneging on its promise made the previous year to the Committee to comply with its recommendations, to fully implement the Convention and to report to the Committee at its present session. But above all, the Government was openly displaying its contempt, not only for its obligations under the Constitution, but also for the

International Labour Organization as a whole. This attitude was all the more shocking as it came from a Government which had just been elected as a member of the ILO Governing Body. The Worker members condemned this attitude in the strongest possible terms. They also profoundly deplored the resulting impossibility for the Committee to examine the increasingly severe violations of the Convention being committed by the Government of Belarus. They hoped that the interest of the Government of Belarus in becoming a member of the Governing Body was motivated by a desire to protect and promote fundamental workers' rights in Belarus, rather than to protect itself against allegations of violations of workers' rights, as some States were doing at the Commission on Human Rights. The Workers' group in the Governing Body would follow closely the action or inaction of the Government of Belarus on this important question of respect for fundamental workers' rights.

- 183.** The Committee noted with regret that the governments of the States which were not represented at the Conference, namely **Chad, Comoros, Dominica, Grenada, Haiti, Kyrgyzstan, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, São Tome and Principe, Solomon Islands, 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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- 184.** As the ILO celebrates the 75th anniversaries of its two supervisory bodies, the Committee reflected upon the history, role, challenges and achievements of these bodies in promoting social justice over the past 75 years through the supervision of the implementation of international labour standards. There was full agreement in the Committee that reliance on, and confidence in, the ILO supervisory system have been demonstrated time and time again and remain firm. The Committee recognized that its effectiveness relies to a large extent on the cooperation of governments to meet their constitutional reporting obligations, and above all, to apply the international labour standards that they have ratified. It further relies on the active participation and cooperation of the independent representatives of workers' and employers' organizations. The Committee was conscious that challenges facing the system are very real and took the first step this year to assess its own working methods as is being done by other ILO bodies. It was agreed that this process must serve to improve the ability of the Committee to better carry out its essential function of strengthening the observance of international labour standards.

- 185.** The Committee examined a number of serious and complex cases concerning the application of international labour standards relating to the fundamental rights of freedom of association, non-discrimination, forced labour, child labour, as well as on standards relating to employment policy, labour inspection, protection of wages and social security. The wide range of discussions demonstrate how vital it is that the Organization continues to promote and supervise the application of the more technical standards along with those dealing with the fundamental labour rights. Although its discussions were sometimes difficult, the Committee's work took place in a spirit of constructive tripartite dialogue and good faith in the knowledge that real and meaningful solutions can be found in this way for even the most apparently intractable problems. In some instances the technical cooperation and advisory services of the Office were requested by the member States and suggested by representatives of workers and employers, and the Committee trusts that these requests will be given priority.

186. Recognizing the many challenges facing governments, and workers' and employers' organizations in the fields covered by international labour standards, the Committee remains convinced that its role is vital in helping governments translate their international commitments into law and practice at the local levels, to the benefit of all.

Geneva, 17 June 2002.

(Signed) Mr. Michel Thierry,
Chairperson.

Mr. Sergio Paixao Pardo,
Reporter.