

Committee on the Application of Standards

CAN/PV.4

Commission de l'application des normes

06.06.24

Comisión de Aplicación de Normas

112th Session, Geneva, 2024

112^e session, Genève, 2024112.^a reunión, Ginebra, 2024

Warning: this document is a draft and may contain omissions or errors. It is made available solely for the purpose of verification and correction. Persons referred to in this document are not to be regarded as bound by statements attributed to them. The ILO declines all responsibility for any errors or omissions which this document may contain, or for any use which may be made of it by third parties.

Avertissement: ce document est un projet, qui peut comporter des omissions ou des erreurs et n'est rendu public qu'à des fins de vérification et de rectification. Les mentions contenues dans ce document provisoire n'engagent pas les personnes dont les propos sont rapportés. La responsabilité du BIT ne saurait être engagée à raison des éventuelles erreurs et omissions entachant ce document, ou de l'utilisation qui pourrait en être faite par des tiers.

Advertencia: el presente documento es un proyecto y puede contener omisiones o errores. Solo se publica a efectos de comprobación y rectificación. Las declaraciones que se atribuyen en el presente documento provisional a las personas citadas en él no comprometen su responsabilidad. La OIT queda exenta de toda responsabilidad respecto de cualquier error u omisión que pudiera figurar en el presente documento o que pudiera derivarse del uso del documento por terceros.

Eighth sitting, 6 June 2024, 10.10 a.m.

Huitième séance, 6 juin 2024, 10 h 10

Octava sesión, 6 de junio de 2024, 10.10 horas

Chairperson: Mr Różycki

Président: M. Różycki

Presidente: Sr. Różycki

Discussion of individual cases

Discussion des cas individuels

Discusión de los casos individuales

Cambodia (ratification: 1999)

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)

Convention (n° 87) sur la liberté syndicale et la protection du droit syndical, 1948

Convenio sobre la libertad sindical y la protección del derecho de sindicación, 1948 (núm. 87)

The sitting opened at 10.10 a.m., with Mr Rozycki in the Chair.

Chairperson – This morning we will continue our examination of individual cases. On our

agenda today: **Cambodia C. 87; Nicaragua C.87; and Colombia C.159.**

I would like to inform the Committee that new D documents with the written information submitted by the Governments of **Australia on C.122** and **Georgia C.100**, are now available on our Committee's web page.

For your information, the verbatim **PV–Special sitting on Belarus** and **PV1–Uganda C.138**, are now available on the Committee's web page. The Committee members may submit amendments to their own statement to the Committee secretariat by tomorrow, **Friday, 7 June, at 3 p.m.**

I would like to inform the Committee that the Governments of **Peru** and **Ecuador** agreed to change the timing for the examination of their cases by the Committee. On that basis, the case of **Peru on C.169** will be examined by the Committee on Monday, 10 June, after the case El Salvador. On the other hand, the case of **Ecuador on C.87** will be discussed on Tuesday, 11 June, after the case Japan on C.87. To reflect these changes, a **new Provisional Working schedule**, document – **D.0 (Rev.1)**, was published in the web page of the Committee.

And now we move to the first individual case in our agenda which is Cambodia on the application of the **Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)**.

I invite the Government representative of **Cambodia**, his Excellency, Mr Chamnan Som, Secretary of State, to take the floor.

Government representative, Cambodia (Mr SOM) – At the foremost, I would like to extend my heartfelt congratulations to Mr President on your appointment. I would also like to make the following submissions to address the concerns of the Committee over the application of the Convention as well as to provide the following updates on the progress in implementation of the recommendations of the direct contacts mission of 2022.

Regarding the long-pending Case No. 2318, the authority did the investigation and arrested the suspects immediately after the incidents happened. And all the cases had also gone through due legal proceedings.

Cambodia does not provide a place for impunities, and any attempt to promote it in Cambodia will be strongly objected. For this reason, the Royal Government of Cambodia has unreluctantly welcomed three direct contacts missions of the ILO in 2008, 2017 and 2022, respectively, to investigate this Case No. 2318. During the missions, the delegates were given full support to meet with various stakeholders, including the tripartite constituents of the ILO, the victims' families and the civil society organizations.

On the other hand, in response to the recommendations of the second direct contacts mission in 2017, the Royal Government of Cambodia decided to establish the National Committee for Monitoring the Implementation of the International Labour Conventions ratified by Cambodia (NCRILC) in 2018, which is a national tripartite mechanism replacing the Inter-Ministerial Committee for Special Investigation on Case No. 2318.

After revising the members in February 2024, the NCRILC had its meeting on 28 May 2024, last month, with the following results:

On the case of Mr Chea Vichea's murder, the National Police reaffirmed their commitment to foster cooperation with relevant stakeholders, including the victim's family, to expedite the reinvestigation and conclude the case although the reinvestigation faces a lot of challenges.

On the case of Mr Hy Vuthy, the National Police would seek support from the International Criminal Police Organization (INTERPOL) to search the perpetrator who remains at large and bring him to justice.

For the case of Mr Ros Sovannareth, as the perpetrator namely Mr Thach Saveth has been convicted and is now serving his term in prison, my delegation would like to reiterate our request to the Committee to withdraw it from the Case No. 2318.

Regarding the incident in early 2014, our position remains firm that that protest at the time was far beyond the strike definition of the ILO. It was actually qualified as a riot. On the other hand, as per our previous report to the Committee of Experts, the charge against six trade union leaders who were involved in the protest was dropped by the Court of Appeals. Therefore, this case has been completely closed. For other cases, the Cambodian Labour Confederation (CLC) provided information on eight pending court cases in a letter dated 27 April 2022 to the Ministry of Labour and Vocational Training. However, after a thorough review by the Ministry of Justice, it was confirmed that none of those cases were related to the trade union activities. Nevertheless, since the beginning of 2024, the Ministry of Labour and Vocational Training – I myself represent the Ministry – has engaged in four productive meetings with the president of the CLC to reassess all pending court and non-court cases as requested by the CLC. It was agreed that our meeting would be conducted once a week to expedite the reviewing process.

In respect of the right to strike, we would like to emphasize that the Royal Government of Cambodia is committed to protecting trade unionists' rights to engage lawful industrial action in accordance with the laws. In addition, there is a clear difference between the lawful industrial action and criminal actions. And it is the sole discretion of the court to make this judgment. Except those who committed criminal actions, no trade unionist in Cambodia has ever been arrested or prosecuted for their legal actions. In this regard, we would like to remind that the Convention provides no special privilege to impunity to trade unionists for unlawful action, I repeat, unlawful actions. This is confirmed by the decision of the Committee on Freedom of Association of the ILO which I would like to quote here "Penal sanctions should

only be imposed if, in the framework of a strike, violence against persons and property or other serious violations of the ordinary criminal law are committed, and this on the basis of the laws and regulations punishing such acts”.

On legislative issues, my delegation would like to reiterate that several national legislations are in place to ensure that everyone, including public teachers, civil servants, and domestic workers, can enjoy their freedom of association. Those legislations include the Constitution, the Labour Law, the Trade Union Law, the Law on Common Statute of Civil Servants, the Law on Education, and the Law on the Associations and Non-Governmental Organizations. Unless there is an express clause in the Convention specifying otherwise, we are not convinced that the freedom of association must be exercised under one single legislation. We understand that law is just the means, not the goal. So, Cambodia provides a variety of means for workers, public teachers, and civil servants to implement their respective freedom of association. Apparently, as of December 2023, there are 2,747 associations and 3,532 non-governmental organizations (NGOs), amounting to a total of 6,279 local associations and NGOs operating in Cambodia. Although public teachers and domestic workers cannot form trade unions under the Law on Trade Unions, they are free to form the associations under other legislations. We have the Cambodian Independent Teachers Association (CITA) as evidence.

Regarding the trade union registration, following the amendment of the Law on Trade Unions (LTU) in 2022 after a series of comprehensive tripartite consultative processes with trade unions and employers' associations under the technical support from the ILO, many concerns of trade unions have been addressed, including the simplification of the procedures for registering a professional organization by allowing the trade union to register at the provincial department level and vocational training and shortening the registration period from 60 days to 30 days, the elimination of the requirement to submit the audited financial

report and the appropriate process of trade union dissolution. No registration application has ever been rejected if the administrative requirements are fulfilled. And our Labour Law and Trade Union Law allow workers to form as many trade unions as they want in one enterprise. Currently, there are, on average, four to five trade unions in one enterprise. This is, of course, very unique.

Evidently, the number of professional organization registrations keeps increasing even after the adoption of the Trade Union Law in 2016 and its amendment in 2020. As of March 2024, we have 6,317 professional organizations, accounting for a 74.21 per cent increase compared to the number of professional organizations registered before the adoption of this Law in 2016. The sharp increase in the number of professional organizations following the adoption and amendment of the Trade Union Law is an indisputable testament that workers and employers can freely form their respective professional organizations. The registration process is not an issue. So, the concern of a couple of trade unions that resist complying with the law is not justified.

Regarding the Arbitration Council, as recommended by the direct contacts mission, we would like to report to the Committee that the Royal Government of Cambodia is committed to strengthening labour dispute mechanisms through making the amendment of the Labour Law in December 2021 to extend the jurisdiction of the Arbitration Council to also hear individual disputes in addition to the collective labour dispute. Following this amendment, a series of tripartite consultative workshops were organized to review the existing functioning and readiness of the Arbitration Council to take the individual disputes. Moreover, the Royal Government has a strong commitment in supporting the institutionalization of the Arbitration Council as a more credible, transparent, and financially sustainable judicial body for settling labour disputes in Cambodia.

On the other hand, we would like to inform that under the latest Labour Law amendment, labour inspectors will be qualified as judicial police officers to ensure the enforcement of the Labour Law, including the binding Arbitral Award.

While taking all concerns into serious consideration, my delegation would like to bring to your attention that what happened in the last 20 years does not reflect the contemporary situation of freedom of association in Cambodia. If we look at the past while we live in the present, it does not make sense, so please look at the present. And if we look at the present, it is proven that there has been a lot of positive progress in Cambodia, in terms of protection and promotion of the rights of trade unions. The trade union movement in Cambodia is quite mature now, and we have adopted the dialogue approaches in our communication. In this regard, many bipartite and tripartite mechanisms have been established. For instance, the Labour Advisory Committee, the ILO-BFC Project Advisory Committee, the National Minimum Wages Council etc.

More importantly, in this 7th legislature of the National Assembly, the Royal Government of Cambodia is committed to continuing and further strengthening the social dialogue. For this reason, the Ministry has set up, as a priority in our Strategic Development Plan 2024–28 to hold quarterly meetings with all federation and confederation trade unions to discuss their challenges. Meanwhile, the Prime Minister will continue to hold the public meeting with workers, supervisors, and administrative managers in the garment, textiles, footwears and travel goods and bags sector – which is the most labour-intensive sector – to build a closer relationship with them so that the Government can address their needs in a timely manner. In this connection, we would like to report to the Committee that, in the 6th Legislature of the National Assembly, our former Prime Minister had several meetings with workers, comprising almost 1 million workers, and after the new Government was formed, the new Prime Minister continued this momentum, and from September 2023 to December 2023, the new Prime

Minister had met with workers for ten times, comprising over 170,000 workers. Through those meetings, the Prime Minister has made a lot of recommendations to the Ministry to implement in order to improve the livelihood of workers, working conditions, and promote peaceful industrial relations, especially through the Government campaign “One Enterprise, One harmonious community”.

Moreover, to meet the demand for clarity and support regarding labour regulations, the Ministry has extended its operating hours from 7 a.m. to 10.30 p.m. on weekdays and set up standby services at the weekend and on public holidays, to continue to provide service to our workers even during the weekend and public holidays. We have also established a 24/7 hotline and dedicated telegram channels to assist workers, employers, and trade unionists with any queries, concerns, or labour disputes.

To conclude, I would like to reassure the Committee that Cambodia remains committed to promoting, protecting, and adhering to all obligations stipulated in relevant instruments to which it is a party. In this regard, the collaboration and support from all relevant stakeholders, including the ILO, is dispensable.

Employer members – Thanks to the Government for those remarks which we have taken careful note of.

Cambodia is a country that has ratified this Convention, a fundamental Convention, in 1999. It has been discussed in this Committee eight times in the past, I will not go through the list of the years but the most recent was 2021. It has been the subject of numerous Committee of Experts’ observations, 16 of them, and the subject of three direct contacts missions, the most recent of which was in 2022.

This is a double footnoted case, designated as such by the Committee of Experts because they have concerns over and above those they would normally attribute to other cases, but

sometimes it is hard to see how in fact they have made their judgement, but here the Committee of Experts noted the long-standing nature of the issues in this particular case, the lack of progress or its perceived lack of progress on a number of the issues, new allegations of serious violations and basic civil liberties essential to the exercise of freedom of association, including the arrest and detention of trade unionists and the absence of a Report from the Government for this years' Conference.

A number of these issues are related to the right to strike, and here we remind the Employers' disagreement with the Committee of Experts' views concerning this Convention with regard to the right to strike and we wish to emphasize that neither the Convention nor any other ILO Convention contain rules on the right to strike and that the Government Group of the Governing Body confirmed their Position Statement in March 2015 that the scope and conditions of this right are regulated at the national level.

So turning now to some of the main issues, in relation to the murder of trade unionists, once again the Committee of Experts recalled its long-standing recommendation to complete the investigations into the murders of three trade union leaders in 2004 and 2007, and noted Government indications that investigations are underway but have been complicated by various factors, including lack of cooperation of some of those affected and witnesses. The Employers join with the Committee of Experts in urging the Government to bring the investigations to a conclusion, that said the Employers would also point out that it is not within the mandate of this Committee to reach conclusions on civil and criminal matters unless these are clearly related to freedom of association. Thus, the investigations should also address the question of whether the deaths were directly associated with the exercise of the right to freedom of association.

As regards the incidents during the January 2014 demonstrations, the Employers noted the information provided by the Government to the effect that the action in question was in fact a riot, the charges against six of the trade union leaders involved were dropped by the Court of Appeals, that eight further cases were not related to the exercise of legitimate trade union activities and it is since early 2024 the Government has had four meetings with the Cambodian Labour Federation to revisit all appending cases and non-court cases.

However, there is still a long way to go. The Employers urge the Government to continue to providing information on these processes and in particular on any verdicts issued in undertaking all necessary efforts to ensure that no criminal charges or sanctions are imposed in relation to the exercise of legitimate trade union activities.

On the broader front, there is a long-standing list of complaints regarding violence, intimidation, arrest and imprisonment of trade unionists for carrying peaceful industrial action.

The Employers condemn any such measures. However, addressing them, in this Committee requires that the matters complained of are breaches of the Convention and not instead matters of civil or criminal law. In that regard we note the comments from the Government, including indicating that no trade union member in Cambodia has ever been arrested or persecuted for participation or organizing a peaceful strike and that conducting violent strikes by destroying public or private property, blocking factory gates to stop other workers from entering to work, blocking public roads, violating health measures during the COVID-19 pandemic, was in fact criminal offence under the national law. Be this at it may, the slow or no progress in investigating the situation of arrested workers makes it difficult for this Committee to reach meaningful conclusions. Therefore, we urge the Government to expedite its investigations and report back by the next session of the International Labour Conference.

On the same topic, the Committee of Experts has drawn attention to the need to ensure that the intervention of the police should be proportionate to the threat to public order; competent authorities should receive adequate instruction and training to avoid excessive force when controlling demonstrations that might undermine public order.

We note that some training has in fact taken place. According to Government information provided to this Committee in 2020, the Ministry, with the support of the ILO, organized Training of Trainers (ToT) for 120 police officers from various units of the National Police and after receiving this training, the trainers trained 550 police officers in their respective units.

While this is praiseworthy, once is not enough, ideally such training should be incorporated in the general training given to the members of the law enforcement agencies. We therefore call upon the Government to continue providing information on its efforts to ensure that members of the law enforcement agencies receive adequate and ongoing training. We also note the Government requests for technical assistance from the ILO to develop guidelines for police officers on how to handle strikes and peaceful demonstrations and trust that the ILO will respond to this request.

Turning now to legislative issues. in relation to Article 2 of the Convention the Employers echo the comments of the Committee of Experts and their requests that the Government takes measures, in consultation with the social partners to ensure that civil servants, including teachers, who are not covered by the Law on Trade Unions (LTU), are guaranteed their rights under the Convention. The Employers note from the Government that public sector teachers could exercise their freedom of association through the Law on Associations and Non-Governmental Organizations (LANGO), and they request the Government to indicate if and to what extent the rights under the LANGO respond to those under the Law on Trade Unions.

In relation to domestic workers and the workers in the informal economy, the Employers request the Government to provide detailed information on steps to promote the effective enjoyment of their rights of freedom of associations. One of the problems here seems to be that the trade union law provides for enterprise union models which does not correspond to the employment situation of domestic workers. The Employers consider that while it is difficult for domestic workers and workers in the informal economy to organize, due to the nature of their work, the legal framework should not be an additional obstacle.

In relation to trade union registration, this Committee in 2021 called upon the Government to ensure that workers are able to register trade unions. The direct contacts mission recommended that practical hurdles to the formation and functioning should also be addressed. We note that the latest Government information suggests that there has been a very increase in the number of trade unions from 3,600 plus in 2020 to 6,300 this year, over 75 percent increase. This seems to conflict with the Committee of Experts' views that there are difficulties in registering trade unions, such a huge increase would suggest that there are very little difficulties. So, we suggest that the Committee of Experts takes into account this information in its next examination. In the meantime, we also call upon the Government to provide further relevant information on this issue.

With respect to the requirement for leaders and other senior staff of trade unions to be able to read and write, we note from the Government that these were the result of tripartite consultations and agreements to address the trade unions' concerns. We also refer to the Committee on Freedom of Association's view that said that requiring literacy for foreign workers to become trade union leaders is not contrary to the Convention. So again, we leave it to the Committee of Experts to examine these facts and reconcile them, but for our part we would like to say that literacy requirements should not pose problems for employers' organizations in practice.

Regarding the dissolution of the representative organizations in line with Article 3, it is for workers' and employers' associations to determine the rules of such matters, these should not be regulated by law. So, we agree with the Committee of Experts' request that the Government take the necessary measures to amend Section 28 of the Law on Trade Unions and also to amend Section 29 so that it is up to employers and associations own laws and bylaws to determine the regulation of procedures for dissolution.

Last, in relation to the independent adjudication mechanisms, we call upon the Government to provide information relating to how it is addressing the measures requested by the direct contacts mission in 2022. We note the Government's statement just earlier that it has made a number of steps in this regard, we commend these steps and urge them to continue.

By way of conclusion, we would recall that the 2022 direct contacts mission suggested the simplification of the road map and its progress report and full consultation with the social partners and with the support of the ILO to identify priority areas for urgent action on the basis of those recommendations and therefore regular review of the adequacy of the steps taken should be conducted with all the parties involved.

These should include the measures taken to engage the social partners concerned and prioritizing areas for action with reference to all of the direct contacts mission's requests, setting our clear deliverables, responsible bodies and time-frames.

Membres travailleurs – Nous avons traité l'année dernière le cas du Cambodge sur la convention (n° 105) sur l'abolition du travail forcé, 1957, alors qu'il porte cette année sur la convention n° 87. Les violations de la convention n° 105 constatées l'année dernière ne sont pas étrangères aux manquements à la convention dont nous allons discuter. Lorsque les principes fondamentaux de la liberté syndicale ne sont pas respectés, c'est l'ensemble des

droits et libertés des travailleurs qui se retrouvent menacés. L'examen de ce cas en sera la parfaite illustration.

La commission avait adressé l'année dernière une recommandation invitant le gouvernement à mettre en œuvre les recommandations formulées au sujet de l'application de la convention à la suite d'une mission de contacts directs organisée en mars-avril 2022. Cette mission de contacts directs avait été recommandée par la commission à l'issue du dernier examen de l'application de la convention par le gouvernement du Cambodge en 2021. L'application de cette convention au Cambodge a fait jusqu'à aujourd'hui l'objet d'un examen par la commission à pas moins de huit reprises depuis 2007. Nous nous joignons à la commission d'experts et regrettons profondément que le gouvernement n'ait pas transmis de rapport. Il est évident que la persistance et la gravité des violations de la convention dans le pays est source d'une profonde préoccupation pour le groupe des travailleurs. L'environnement au Cambodge est très loin de permettre l'exercice des libertés civiles, et en particulier l'exercice de la liberté syndicale. Il règne au Cambodge un climat antisyndical répandu dans tout le pays et de nombreux obstacles juridiques et pratiques à l'exercice de la liberté syndicale perdurent depuis bien trop longtemps. Parmi les plus graves conséquences de ce climat délétère figurent les meurtres de syndicalistes perpétrés dans le pays. Le rapport fait mention des meurtres des dirigeants syndicaux Chea Vichea et Ros Sovannareth en 2004 et Hy Vuthy en 2007. Nous devons regretter qu'aucune enquête complète et indépendante n'a été menée à ce jour sur ces faits. Quant à la commission nationale d'examen de l'application des conventions internationales du travail, il convient de noter qu'elle ne se réunit qu'une fois par an et ne semble pas encore avoir permis d'engranger des avancées décisives.

Les travailleurs qui mènent des actions collectives au Cambodge sont bien souvent exposés aux violences, aux intimidations, aux arrestations ainsi qu'aux détentions. Le rapport de la commission d'experts fait mention des événements survenus en 2014 à la suite de

manifestations pacifiques pour réclamer une hausse des salaires. Les syndicalistes ayant participé à ces événements ont fait l'objet de poursuites pénales. Cette pratique de poursuites pénales a toujours cours actuellement au Cambodge. Alors que de nombreuses recommandations adressées au gouvernement l'invitent à fournir des informations sur les procédures en cours et à lister les syndicalistes faisant l'objet de telles procédures en consultation avec le syndicat concerné, le gouvernement n'a transmis aucune information à cet égard à la commission d'experts. Il existe toujours une discordance entre le listing des procédures judiciaires tenu par les organisations syndicales et celui tenu par le ministère du Travail. Le gouvernement annonce dans ses observations écrites que des réunions hebdomadaires se tiennent depuis le début de l'année 2024 pour réexaminer l'ensemble des procédures judiciaires en cours. Il sera important que le gouvernement transmette des informations à ce sujet à la commission d'experts pour examen. Le rapport fait mention des arrestations de travailleurs survenues dans le cadre d'un conflit social survenu dans la région de Phnom Penh à la suite du licenciement de plus de 1 300 travailleurs et de pratiques de discrimination syndicale. Ces faits ont également fait l'objet d'une saisine du Comité de la liberté syndicale qui a prié instamment le gouvernement de veiller à la libération immédiate et inconditionnelle des syndicalistes concernés. Selon nos informations, la Cour suprême du Cambodge a confirmé les peines de prison prononcées à l'encontre de ces syndicalistes au début du mois de mai de cette année. La récurrence des incidents avec les forces de l'ordre est le signe d'un environnement peu propice à l'exercice des libertés civiles et de la liberté syndicale. Le recours excessif à la force nous fait craindre un manque de formation des forces de l'ordre sur ces questions. Il nous paraît évident, comme l'a recommandé la mission de contacts directs, qu'il est nécessaire de donner des instructions claires pour que l'intervention de la police en cas d'actions collectives soit proportionnée à la menace pour l'ordre public et évite le danger d'une violence excessive.

La législation cambodgienne contient un certain nombre d'éléments incompatibles avec la convention. La législation sur les syndicats ne s'applique pas aux fonctionnaires, dont les enseignants. Elle trouve difficilement à s'appliquer aux travailleurs domestiques et à ceux de l'économie informelle. Le modèle de syndicat d'entreprise promu par la loi sur les syndicats impose des exigences auxquelles ce public peut difficilement satisfaire. Le gouvernement n'avait jusqu'à ce jour apporté aucun élément permettant de saisir dans quelle mesure les droits consacrés par la convention sont garantis pour les fonctionnaires, les travailleurs domestiques et les travailleurs de l'économie informelle. Les informations écrites transmises par le gouvernement se bornent à préciser que les enseignants privés et les travailleurs domestiques peuvent se prévaloir de la loi sur les syndicats tandis que les enseignants publics peuvent se prévaloir de la loi sur les associations et les organisations non-gouvernementales. Aucune précision n'est apportée quant aux mesures prises pour surmonter les obstacles évoqués. La question de la procédure d'enregistrement des syndicats pose toujours des difficultés. Bien que le nombre de syndicats enregistrés ait connu une augmentation entre 2016 et 2024, nous constatons toujours des difficultés dans le processus d'enregistrement. Le maintien de l'enregistrement est aussi conditionné par des obligations d'audits financiers particulièrement lourdes qui peuvent constituer des obstacles disproportionnés à l'exercice de la liberté d'association.

La commission d'experts avait indiqué au paragraphe 104 de l'Étude d'ensemble de 2012 que l'exigence de savoir lire et écrire pour devenir dirigeant syndical est incompatible avec la convention. La législation cambodgienne prévoit pourtant que les étrangers doivent savoir lire et écrire le Khmer pour devenir dirigeants syndicaux. Le gouvernement n'a fourni aucune information écrite au sujet de l'article 326 de la loi sur le travail aux termes duquel le ministère du Travail et de la Formation professionnelle est habilité à déterminer les modalités d'un service minimum en l'absence d'un accord entre les parties. Des sanctions pour faute grave

peuvent aussi être imposées aux travailleurs. Nous regrettons qu'il soit courant de remplacer des travailleurs qui mènent des actions collectives et de prononcer des injonctions pour empêcher une action revendicative, même lorsque les syndicats respectent toutes les procédures. Le rôle du comité chargé de la gestion des conflits collectifs doit être clarifié de sorte à ce qu'il ne restreigne pas le droit légitime des organisations de travailleurs de mener des actions collectives pour défendre les intérêts de leurs membres. Le paragraphe 2 de l'article 28 de la loi sur les syndicats prévoit la dissolution automatique d'un syndicat en cas de fermeture de l'entreprise. L'article 29 de la même loi permet également à toute personne de demander la dissolution du syndicat devant le tribunal. Or, il conviendrait de laisser aux statuts et règlements des syndicats le soin de déterminer la procédure de dissolution par leurs membres.

En ce qui concerne le fonctionnement du conseil d'arbitrage, nous regrettons le refus du ministère du Travail et de la Formation professionnelle d'autoriser les syndicats de niveau supérieur à représenter ou à soutenir leurs membres dans les conflits collectifs. La qualification de certains conflits pose également problème puisqu'un certain nombre de conflits qui étaient clairement des conflits collectifs ont été qualifiés de conflits individuels et n'ont par conséquent pas pu être traités par le conseil d'arbitrage.

Chairperson – I would like to inform all delegates that the Offices of the Committee have decided to reduce the speaking time for individual government delegates of the Committee from five to three minutes.

Employer member, Cambodia (Mr SOK) – It is regrettable that the Committee of Experts has called Cambodia to appear this year, even though we have made significant demonstrable progress. We observed that the report of the Committee of Experts for 2024 sets out a substantial set of requests to the Government of Cambodia, including some incidents reaching

as far back as two decades ago. Due to time limits and other practical considerations, we are not able to address each item of the report. Rather we wish to offer our views and observations at a high level and at the same time we will focus attention on certain cases raised in the report. The conditions of working environment and well-being of our workers today are different from the past. Employers have collaborated with government workers and other counterparts towards ensuring decent productive and sustainable work for all women and men in Cambodia. While we understand there is much work to be done to fully achieve our common vision and goals, we take pride in the recognition of our shared efforts and progress in the improvement and strengthening's of the working environment and well-being of our workers. Allow me to highlight just a small sample of achievements over the past years. Minimum wage for workers in the garment, footwear, and textile sectors, about 90 per cent of whom are women, has increased 19 times since 1997, and the minimum wage now stands at US\$204 per month. And we know that it is set annually by the negotiated tripartite process. Using the criteria as stipulated in Article 3 of the Minimum Wage Fixing Convention, 1970 (No. 131), the current minimum wage in Cambodia is higher than that of some comparable countries in the region, and furthermore the actual take home pay of workers in 2024 exceeds US\$260 per month. Building the framework and expanding the coverage of National Social Security for the direct benefit of workers and their families including through Work Injury Scheme, Healthcare Scheme and more recently Pension Scheme, not to mention expanding Social Protection Measures to mitigate the socio-economic impact of COVID-19 such as the Wage Subsidy Scheme providing unemployment benefits to workers where business operation had been suspended during the pandemic and strengthening and setting the standard for compliance with labour law and regulations as well as business and human rights principles, as recognized and reported by the ILO Better Factories Cambodia Programme. And we attribute this to employers involved in improving knowledge and understanding of labour laws and standards,

of good practice, and the improved capacity of the Ministry of Labour in introducing and enforcing labour law and regulation. We employers fully recognize the rights of trade unions to organize and represent their members, however, we remain concerned about the multiplicity of trade unions, their lack of representativeness and the fragmentation and the ongoing in-fighting among the trade unions that disrupt business operations and undermine the hard won progress we have made in industrial relations. These problems persist in the landscape where the proliferation of trade unions matches unabated over the past years and as reported by the Ministry of Labour, the number rose over 70 per cent, to over 6,000 organizations in March this year compared to about 3,600 organizations back in 2016 when the trade union law was adopted. We turn now to focus on some key specific issues set in the report in relation to the cases of murder of trade unionists, we share our views as follows, we condemn to the incitement of violence as well as any act of violence against any individual, including trade unionists, perpetrators of crime need to be brought to justice as warranted by Cambodia's National Justice System. Regarding the case relating to the murder of Mr Chea Vichea, we recognize that the reinvestigation is very challenging for competent authorities due to the large gap between the time the incident happened and the time the court ordered reinvestigation. And regarding the case relating to the murder of Mr Ros Sovannareth We support the Government's request to review the matter due to the fact that the court has convicted the perpetrator and presently he has been put in prison to serve his term. We wish to draw the attention of the Committee to the fact that the cases of the killings of Mr Chea Vichea and Mr Ros Sovannareth occurred in 2004 and Mr Hy Vuthy in 2007, while these cases are serious, we ask the Committee to consider not the define the present-day state of freedom of association and industrial relations in Cambodia on the basis of cases that happened nearly two decades ago. In relation to the arrested union leaders and activists we know that Cambodia recognizes the right to peacefully exercise industrial action, but committing

unlawful acts such as violence during protests or other illegal acts is punishable by laws of Cambodia. We call on the Government to provide reports regularly to the Committee of Experts on the status and progress of the key issue raised in the report to allow the said Committee to have the update and to avoid misunderstanding by the Committee and to promote the better appreciation by the Committee of the national realities and tangible progress achieved in Cambodia. Despite the progresses, there are ongoing challenges that employers and other social partners have to continue to deal with. We believe that the social partners in Cambodia will benefit from the technical support and expertise of the ILO. We hereby request the ILO to provide and increase their provision of its technical support to employers and other social partners in Cambodia with a view to strengthening and improving the state of industrial relations and sustainability of enterprises in Cambodia. The technical support should aim to enhance knowledge and understanding of not only the rights, but also the legal obligations of the social partners relating to freedom of association, collective bargaining, and sustainability of enterprises.

Worker member, Cambodia (Mr SEANG) – My name is Seang Bunsan, Secretary General of Cambodian Confederation of Trade Unions (CCTU) and I am representing Workers' delegate from the Kingdom of Cambodia. I will speak on the various issues as highlighted by the Committee of Experts such as the case of murders of trade unionists, criminal charges in relation to the January 2014 demonstration, trade unionist for carrying out peaceful industrial action, the application of trade union laws for civil servants and public sector teachers, domestic workers and informal economy, trade union registration and ILO direct contacts mission in 2022.

1. As for the case of murders of trade unionists, allow me to acknowledge the commitments made by the Government of Cambodia, particularly after participating in the discussion during the meeting of National Commission on Reviewing the Application of the

International Labour Conventions (NCRILC), ratified by Cambodia on 28 May 2024. We recognise the Government's efforts and hear all the difficulties, challenges and complexities of the cases. However, we share the view with the Committee of Experts that the investigation and conclusion of these cases are needed.

2. Regarding the clarification on the completion of the case against the six trade unionists in relation to the incidents in January 2014, we have learned that the Government had provided legal assistance to those unionists. We encourage that this treatment should be applied to all cases concerning unionists.
3. On the protection of the rights of trade unionists to engage in peaceful industrial action, as these rights are not absolute, the Government should offer clear guidance and differentiation on the lawful exercise of industrial action to prevent confusion between legitimate industrial action and criminal offense. Related authorities should possess a clear understanding of their roles concerning legitimate industrial action and criminal acts to ensure that trade unionists can engage in peaceful industrial action without fear of reprisal. While we appreciate the Government's efforts to train police officers on the right to strike and peaceful demonstration since 2020, we urge the Government to expedite the development of guidelines on handling strikes and peaceful demonstrations for police officers as well.
4. We also thank the Government of Cambodia for providing legal support in pending court cases involving trade unionists, although these cases did not involve the exercise of trade union rights but rather criminal acts. We therefore urge the Ministry of Labour, Workers and all in training and the Ministry of Justice to persist in their collaborative efforts to offer legal assistance in any remaining trade union cases before the court. It is imperative that the Government and employers respect and protect the rights of trade unionists to

engage in industrial action without facing violence, intimidation, arrest, or imprisonment. Upholding these rights is essential for promoting a fair and just labour environment that respects the dignity of all workers and serves as a cornerstone for promoting harmonious industrial relations.

5. We take note on the progress made by the Government on the implementation of the Trade Union Law. We also note the Government's clarification that civil servants and public sector teachers can also exercise their rights under different legislation, including the Law on Associations and Non-Governmental Organizations (LANGO).
6. We appreciate the amendments to the Law on Trade Unions in 2020, in which we, as part of the tripartite constituents, actively participated in the stock-taking process of inputs during tripartite consultative processes. We are looking for a more effective implementation of that law through the dissemination of workshops on trade union registration. This will help raise awareness and understanding of the registration procedures, ensuring that all parties concerned can effectively exercise their rights to freedom of association.
7. We acknowledge the efforts and achievements made by the Government of Cambodia on the implementation of the recommendations provided by the Direct Contact Mission in 2022, upholding the freedom of association. We also take note of the challenges which require all parties concerned to work together in addressing them.
8. We also commend the Government for the recent launch of the Sixth Phase of the Decent Work Country Programme (DWCP) from 2024 to 2028, which is a result of continuous constructive dialogue of all stakeholders in Cambodia.

In conclusion, as we reflect on the progress and ongoing challenges of the trade union rights in Cambodia, it is evident that dialogue is very important. The union is committed to

engaging in constructive dialogue and actions with the Government and the other social partners. We are dedicated to advancing the principles of freedom of association.

Government member, Belgium (Ms LIZIN) – I have the honour to speak on behalf of the European Union and its Member States.

The candidate countries North Macedonia, Montenegro, Albania, Ukraine, Republic of Moldova, and the EFTA countries Iceland and Norway, members of the European Economic Area, align themselves with this statement.

The EU and its Member States are committed to the respect, protection and fulfilment of human rights, including labour rights. We promote universal ratification and effective implementation of fundamental ILO Conventions and support the ILO in developing and promoting international labour standards and supervising their application.

The European Union (EU) and its Member States have been committed development partners of Cambodia, including through the “Everything But Arms” (EBA) arrangement under the EU’s General Scheme of Preferences, granting duty-free and quota-free access to the EU market, contributing to sustained growth and job creation in the past decades.

The trade benefits granted under the EBA arrangement are subject to the condition that Cambodia respects core international principles, enshrined in core UN and ILO Conventions. Due to serious and systematic violations of human rights, especially the right to political participation and fundamental freedoms, as of August 2020, this preferential treatment has been partially suspended.

We deeply regret that the Cambodian authorities have not provided a report this year on the application of the Convention nor on the progress made in respect of the recommendations of the direct contacts mission. The written information recently submitted

by the authorities only addresses a few of the key concerns, and it does not reflect the reality on the ground.

We note with deep concern the new allegations of serious violations of basic civil liberties, including violence, intimidation, arrest and imprisonment of trade unionists and request Cambodia to report on these issues. We urge the authorities to stop arbitrary arrest, detention, and prosecution of trade unionists and to immediately release those detained for undertaking their legitimate trade union activity.

Regular training of police forces in relation to industrial and protest action remains crucial to ensure that peaceful industrial action is not repressed and to avoid the use of excessive violence. We take note of the request of Cambodia for technical assistance from the ILO to deepen and expand such trainings. We request the authorities to report on any next steps in this regard.

We also deeply regret the lack of information on serious long-standing issues, such as the investigations into the murders of trade union leaders in 2004 and 2007. In this regard, we urge the authorities to expedite the process of investigation and bring to justice the perpetrators and instigators of these crimes.

As regards the trade unionists still facing criminal charges in relation to demonstrations in January 2014, we urge the Cambodian authorities to review the list of pending cases with the unions concerned and provide detailed information on cases of criminal prosecutions.

The persistence of legal and practical obstacles to freedom of association is also particularly regrettable. We urge the Cambodian authorities to amend the legislation, in consultation with social partners, to ensure that civil servants, including public sector teachers, domestic workers and workers in the informal economy are guaranteed their rights under the

Convention. We also encourage the authorities to address rapidly the numerous obstacles to union registration.

In addition, we echo the request of the Committee of Experts to the Cambodian authorities to amend relevant sections of the Law on Trade Unions and of the Labour Law, in consultation with social partners, regarding financial audit and maintenance of registration, the right to elect representatives freely, the right of workers' organizations to organize their activities and the dissolution of representative organisations. We reiterate the importance of holding a comprehensive tripartite dialogue on the legality of the exercise of industrial action with a view to reviewing existing regulations.

We underline the need to ensure effective and independent adjudication mechanisms, such as the Arbitration Council, as a safeguard against impunity and as a means to protect workers' rights during labour disputes.

Last but not least, we strongly encourage the Cambodian authorities to implement all the recommendations arising from the ILO's direct contacts mission of 2022 and those of the ILO supervisory bodies to stop labour rights violations and embark on a constructive path of reform. To this end, we expect the authorities to achieve progress in the development of the roadmap, in full consultation with social partners and with the support of the ILO, to identify priority areas of urgent action with clear deliverables and time frames.

The EU and its Member States will remain closely seized of the situation in Cambodia.

Government member, Indonesia (Mr IDHAM) – I have the honour to deliver this statement on behalf of the ASEAN Member States.

ASEAN commends Cambodia's unwavering commitment and active engagement with the ILO supervisory mechanisms, particularly in the implementation of the Convention.

We recognize and commend the significant progress Cambodia has made thus far, through comprehensive tripartite consultations, in enhancing its legal framework and ensuring effective implementation of relevant laws and regulations, particularly the Labour Law and Law on Trade Unions. The amendment simplifies trade union registration process and eliminates trade unions' obligation to submit financial report to the Government. These essential strides have led to an increasing number of registered trade unions, approximately 74 per cent from 2016 to 2024. Furthermore, greater maturity among social partners has been fostered, enabling them to conduct their activities with increasing professionalism. These achievements highlight Cambodia's robust commitment to nurturing a conducive environment for the exercise of the freedom of association, reflecting harmonious industrial relations within the Kingdom.

ASEAN appreciates Cambodia's efforts in promoting the freedom of association through its mechanism to receive complaints on labour issues from the workers and employers, through various channels such as Telegram, Facebook, 24/7 hotline and the extended working hours of labour-related government officials until 10:30 p.m. from Monday to Sunday.

ASEAN regards Cambodia's tripartism as a good practice in enhancing industrial relations and active engagement in social dialogue. The initiative of Cambodia during May Day that her Government accepts feedbacks to discuss and tackle all labour issues, including the freedom of association and related labour rights, which we may regard it as a concrete mechanism to foster social dialogue and tripartite partnership. We encourage Cambodia and its social partners to continue this dialogue process for an ongoing promotion of freedom of association.

ASEAN notices the progress of Cambodia in promoting the rule of law and implementing obligations under ratified ILO Conventions, including freedom of association and related

labour rights since 1999. Cambodia has proven that there has been no instance where trade unionists were arrested solely for exercising their unionist activities, but the criminal charges were done through legal proceedings by competent authorities against individuals who committed criminal acts.

ASEAN commends Cambodia for playing a leading role in working with stakeholders in the implementation of key ILO projects including Better Factories Cambodia, Decent Work Country Programme and Global Deal Initiative.

In light of the above-mentioned progress in the application of the Convention, ASEAN calls on the ILO and all international partners to support and engage with Cambodia to further nurture an environment conducive to the exercise of freedom of association and enrich harmonious industrial relations.

Miembro gubernamental, Cuba (Sr. OROZCO ORTEGA) – Agradecemos al Gobierno de Camboya por la presentación de informaciones adicionales y tomamos nota de que el Gobierno expresa la voluntad de continuar avanzando en el diálogo social tripartito en el país y en el trabajo con la OIT; dicha información y argumentos muestran la voluntad del Gobierno de honrar los compromisos asumidos en el seno de esta Organización.

Reiteramos que debe primar los mecanismos de cooperación y de trabajo conjunto, en lugar de los mecanismos de coacción.

En el análisis de cualquier caso todos debemos privilegiar la vía de las negociaciones, el diálogo respetuoso, la asistencia y la cooperación.

Las medidas tomadas en contra de las voluntades de los Gobiernos, lejos de fomentar el diálogo y la cooperación, atizan la confrontación.

Finalizo reafirmando la importancia del apego al diálogo tripartito y la búsqueda de consenso, ambos como principios fundamentales de esta Organización.

Membre travailleuse, France (M^{me} FRAPARD) – Je m’exprime au nom des travailleurs français, et se joignent également à cette déclaration les travailleurs australiens.

À ce jour, aucune mesure n’a été prise pour répondre aux préoccupations de la mission de contacts directs de 2022 concernant la pratique systématique du ministère du Travail qui consiste à classer de manière erronée les conflits collectifs.

En effet, nous observons une tendance à la mauvaise classification des conflits du travail, ceci dans le but d’éviter le recours au conseil d’arbitrage. Cette pratique est très préoccupante pour les travailleurs et les syndicats.

Si l’on se réfère aux statistiques officielles, nous constatons que les recours collectifs sont gravement sous-estimés. Ces statistiques nous révèlent pour 2023 une augmentation remarquable des cas individuels canalisés vers le ministère du Travail, et une chute des cas transférés au conseil d’arbitrage de 80 pour cent par rapport au pic de 2019, et de 58 pour cent comparé à 2022.

Depuis 2021, aucun sous-décret n’a été pris pour faire appliquer le mandat étendu du conseil d’arbitrage sur les conflits du travail individuels, ce qui conduit à l’absence de solution apportée pour traiter le problème du nombre croissant de cas de violations de la liberté d’association qui ont fait l’objet d’une mauvaise classification.

Il faut également souligner que la liberté d’association ne peut être exercée pleinement, du fait de la pratique courante de non-réintégration de syndicalistes, puisque le syndicat se dissout avant d’avoir obtenu son enregistrement. Ainsi, alors que l’enregistrement d’un syndicat était en cours au ministère du Travail, le président du syndicat a été licencié et 15 dirigeants et membres de ce syndicat ont été contraints de démissionner. Le ministère du

Travail n'a pas traité cette affaire comme un cas de discrimination antisyndicale et ne l'a pas soumise à l'arbitrage.

L'accès à un mécanisme d'arbitrage des conflits du travail indépendant, efficace, accessible et bénéficiant de la confiance des partenaires sociaux est essentiel pour faire respecter les droits de la convention et garantir la non-impunité.

Pour conclure, je voudrais rappeler trois des recommandations et préoccupations de la mission de contacts directs de 2022:

- premièrement, les licenciements abusifs doivent être rapidement transmis au conseil d'arbitrage;
- deuxièmement, toute évolution du fonctionnement du conseil d'arbitrage envisagée par le gouvernement ne doit avoir lieu qu'après des consultations complètes et significatives avec toutes les parties et tous les acteurs concernés;
- enfin, troisièmement, des mesures urgentes doivent être prises pour recruter et former des nouveaux arbitres et les confédérations et fédérations syndicales doivent pouvoir représenter leurs membres sans avoir à obtenir l'approbation préalable du ministère du Travail et de la formation professionnelle.

Nous demandons instamment au gouvernement cambodgien de mettre en œuvre, de manière prioritaire, les recommandations de la mission de contact direct.

Membre gouvernemental, Suisse (M. DURIG) – La Suisse soutient la déclaration faite par l'Union européenne et souhaite faire part des points suivants:

- La Suisse est vivement préoccupée par les observations de la Confédération syndicale internationale faisant état d'un climat répressif à l'égard des syndicalistes au Cambodge. Les actes de violence et de répression policières, les arrestations et les détentions

arbitraires de représentants syndicaux sont des violations graves des droits fondamentaux reconnus dans la convention.

- La Suisse condamne ces actes et rappelle que les travailleurs doivent pouvoir exercer pleinement leurs droits à la liberté d'association et d'expression sans que cela ne puisse porter atteinte à leur intégrité physique ou psychique. Elle appelle le gouvernement cambodgien à mener des enquêtes indépendantes sur les actes antisyndicaux et à engager des poursuites judiciaires à l'encontre de leurs auteurs.
- Les nombreux obstacles législatifs, juridiques et pratiques auxquels sont confrontés les travailleurs pour constituer, enregistrer ou s'affilier à des syndicats sont également préoccupants. Ces obstacles restreignent fortement l'exercice plein et entier de la liberté syndicale. À cet égard, le gouvernement suisse appelle le gouvernement cambodgien à adapter sa législation conformément à la convention et à s'assurer, en consultation avec les partenaires sociaux, de son application effective. Ceci afin de garantir, en droit et en pratique, la jouissance effective de la liberté syndicale.
- La Suisse regrette également l'absence d'informations transmises par le gouvernement cambodgien quant à l'application de la convention, notamment sur les mesures prises en réponse aux recommandations de la mission de contacts directs ayant eu lieu en 2022. Ce manque de communication, couplé aux nombreuses observations et demandes directes répétées de la commission d'experts, a conduit à ce que ce cas soit discuté, aujourd'hui, pour la huitième fois au cours des quinze dernières années devant la commission.

Eu égard aux remarques précédentes, et afin de rétablir un climat de confiance entre le gouvernement et les partenaires sociaux cambodgiens, la Suisse encourage urgemment le gouvernement du Cambodge à prendre toutes les mesures nécessaires pour créer un environnement propice au dialogue social constructif et à la liberté syndicale.

Employer member, Indonesia (Ms LIAWATI) – I am delighted to speak on behalf on the Employers' Association of Indonesia (Apindo). Freedom of association is an essential avenue for improving conditions of labour, establishing industrial peace and sustaining progress. We join Cambodia in reaffirming adherence and support for the freedom of association and the protection of the right to organize Conventions. We view that Cambodia has set out important information and facts on constant progress of conditions of working environment and well-being of the workers in Cambodia. We consider that Cambodia has established a strong and compelling case for its compliance on the Convention while also providing valuable contextual information and facts of the case, and underscoring the important point that analyses of how Conventions are applied must be cognisant of different national realities and legal systems. As specific incidents raised in the report occurred around 20 years ago we are sympathetic of the challenge that Cambodia faces with regard to the investigation into the cases. We commend the Government of Cambodia's commitment to continue providing updates to the ILO. We wish to add and highlight the value and effectiveness of the Member States' national systems to address important issues of interest. The system we have established for ourselves, including systems of social dialogue whether formal or informal, tripartite or bipartite or context sensitive, help to promote consensus, build better employment relationships and advance industrial peace which ultimately benefits workers, employers and economic and social development in our countries.

Worker member, Japan (Ms NORIMATSU) – I am speaking on behalf of Japanese workers. The ILO direct contacts mission in Cambodia in 2022 noted that there were still practical hurdles in trade union registration and certification for the most representative status (MRS) in Cambodia, and they should be rapidly addressed.

The mission also recommended ways to improve transparency and elimination of the process and demonstrate the consistency of application.

We have heard from the Cambodian Government informing this Committee of a rise in the number of registered unions and simplified registration procedure. In practice, many unions are faced with many practical hurdles. Approval is still subject to the discretionary power of the labour authorities. Thirty-three trade unions' registration applications filed since as early as 2018 are still pending with the labour ministry for trivial mistakes made in the applications or missing documents.

Among them, 20 leaders from 6 garment trade unions had been dismissed by the employer while their registrations filed between 2019 and 2020 were pending. There was no remedy by the administration on their reinstatement.

In another case, the ministry has been holding off the registration of two unions since 2019 on the ground that one of its leaders' employment contract has been suspended – even though it is acceptable under the trade union's own statute and not prohibited under Trade Union Law.

Another federation has submitted for most representative status certification in two factories early this year. In the meantime, the company changed the name on business registration and voided the union's application.

Workers urge the Government to register trade unions and certify MRS in a swift, fair and equitable manner, in accordance with the pointed recommendations of the ILO's direct contacts mission and with the labour laws of their country.

Employer member, Philippines (Mr MARQUEZ) – I am speaking on behalf of the Employers' Confederation of the Philippines (ECOP).

We consider that Cambodia has provided valuable information and facts concerning the progress on the working conditions and well-being of workers that have been achieved in the country regarding its implementation of the Convention.

We view that Cambodia has been moving in the right direction with respect to its implementation of the Convention. It has taken measures on a continuing basis to investigate and process through judicial proceedings the listed cases of the killing of unionists. Despite the challenges of investigation into one of the cases that occurred almost two decades ago, Cambodia continues to press ahead the investigation, which we view as good matter of commitment of Cambodia to discharge its duties under the Convention.

The approaches of the Government of Cambodia to build decent work and to adhere to its commitments on freedom of association for people in the country are notably commendable. We consider that the Government has established and has engaged actively in a great diversity of social dialogue mechanisms with trade unions, employers, and with the ILO, including ILO Better Factories Cambodia, to address the issues and challenges it is facing. We believe that the inclusive approach and the established mechanisms of social dialogue will provide valuable, numerous benefits to Cambodia as it continues to tackle the issues and challenges set out in the report.

Finally, information and understanding by the tripartite constituents are essential for effective implementation of the Convention. In this sense, we concur with the calls of the national employer of Cambodia for ILO to increase its technical support to employers and other social partners in Cambodia to strengthen the state of industrial relations and sustainability of enterprises in the country.

Worker member, Switzerland (Ms IBKENDANZ) – The Committee of Experts has rightly expressed its deep concerns over arrest and prosecutions of trade unionists in Cambodia.

A classic recent example is that of Mr Chan, who was arrested on 14th of February 2024 at his workplace, a shoe factory, and charged with “conspiracy to commit theft” for an incident that happened time ago, alleged by his employer. Mr Chan was elected as President of his

union at his factory one month before the arrest. First, the factory management tried to talk him out of it. After failing to dissuade him from establishing a trade union at the workplace, Mr Chan received a threat through a colleague, that if he continued his union work and did not cooperate with the management, he would end in troubles. Mr Chan has been put under pre-trial detention for three months, until today.

At the national trade union level, Mr Morm Rithy president of Cambodian Tourism and Service Workers' Federation and Vice President of Cambodian Labor Confederation was arrested at the trade union office on 7th May 24 following a verdict handed down earlier on the same day by the court in his absence. He was sent to prison immediately on conviction of incitement and "discrediting a judicial decision". He was given a sentence of 18 months' imprisonment for airing criticisms, two years ago, questioning the unfair dismissals, detention, and anti-union discrimination practices against the trade union leaders of a casino company, and openly stated on a post, on his Facebook live-page that he had "lost faith in the court's decision". Mr Rithy's arrest and conviction does not seem to be a coincident given the complaint he had filed recently against the same casino group.

These are just two examples to illustrate the serious threats of intimidation and harassment faced by labour rights activists under an environment where civil liberties and judicial independence are impeded.

Furthermore, workers report cases facing threats of dismissals for merely approaching trade union organizers at their workplaces or participating freely in trade unions. Given the poverty and high indebtedness of many workers families in Cambodia, losing their jobs means a grave threat to their households.

We urgently call upon the Cambodian Government to take all the necessary measures to ensure that all trade unionists detained for undertaking legitimate trade union activity are

immediately released, and that workers can fully exercise their rights in line with the Convention.

Government member, United States of America (Mr NSUBUGA) – The United States remains deeply concerned regarding ongoing reports of violence against trade unionists and impunity for the perpetrators, as well as arbitrary arrest, detention and conviction of trade unionists for exercising their rights to freedom of association and peaceful assembly.

We are particularly concerned by the Cambodian Supreme Court's May third decision to uphold the conviction of trade union president Chhim Sithar, convicted along with eight other members of the Labor Rights Supported Union of Khmer Employees of Nagaworld (LRSU) after engaging in a peaceful strike in 2021.

We call for Chhim Sithar's immediate release and urge the Government to take all necessary measures to stop the arbitrary arrest, detention and prosecution of trade unionists for undertaking legitimate trade union activity.

We also urge the Government of Cambodia to take all necessary measures to address long-standing issues and fully implement the recommendations of the 2022 direct contacts mission, including:

- addressing practical hurdles to the formation, functioning and registration of trade unions, through a simple, objective and transparent process;
- revising sections 17 and 27 of the Law on Trade Unions, so that audits to the financial statements and activity reports are only required in cases with serious grounds of impropriety by an organization; and
- repealing section 28(2), and ensure that workers' or employers' organizations are only dissolved on the basis of their by-laws, or by a court ruling.

We reiterate the supervisory bodies' recommendation that the Government review existing regulations and their application in practice and undertake any necessary measures to ensure such regulations promote, respect, and realize internationally recognized labor rights, including the rights to freedom of association and collective bargaining.

We emphasize the importance of the independence of adjudication mechanisms – including the important role of the Arbitration Council. And, in that regard, we note the conclusions of the direct contacts mission regarding the misclassification of disputes before the Arbitration Council preventing some complaints from being heard, such as the classification of termination of a trade union officer as an individual dispute, and the direct contacts mission recommendation that dismissals of trade union leaders prior to or after the union's registration should be considered as a collective dispute.

We encourage the Government to work closely with the social partners to identify priority areas of urgent action based on the direct contacts mission recommendations and those of the ILO supervisory bodies with clear deliverables and time frames, to ensure accountability and transparency.

The United States remains committed to engaging with the Government to advance worker rights in Cambodia.

Interpretation from Chinese: **Government member, China (Mr WANG)** – I thank the representative of the Cambodian Government for the detailed information. We also carefully read the Report of the Committee of Experts as well as the supplementary information by the Government.

Over the years the Cambodian Government has cooperated and communicated with the ILO and its supervisory bodies showing a positive attitude and play a constructive role. We appreciate their efforts. We note with the technical support from the ILO, Cambodia has

amended their Trade Union Law after extensive consultations, simplifying the registration procedures and better protecting the interests and rights of workers. The Ministry has taken a series of measures to strengthen the dispute settlement mechanism.

No country under the rules of law allows anyone or any right to be above the law. Cambodia's Constitution explicitly guarantees civil rights, including freedom of association, recognizes the rights of citizens to form and join trade unions and at the same time, it is stipulated that the exercise of these rights shall not violate the legitimate rights of others.

The Cambodian Government has earnestly fulfilled its obligations and ensured that its practices in all fields are in line with the provision of Conventions.

We note that the Cambodian Government expects the ILO to continue to provide technical assistance.

The purpose of the ILO supervisory bodies is to assist its Member States implementing their international obligations. We expect that this Committee will pay attention to the authoritative information by the Government, consider this case objectively and impartially and reach a positive and constructive conclusion with the purpose of promoting better fulfilment of obligations.

We encourage the ILO Office to strengthen communication and exchanges with the Cambodian Government, provide more technical assistance and help them to better implement the Convention, so as to protect interests of the workers and promote economic and social development.

Government member, Australia (Ms DURBIN) – The Australian Government is strongly committed to the multilateral system and the ILO as the only specialist tripartite agency of the

United Nations that brings together governments, employers, and workers from across the globe.

We thank the Committee of Experts for their 2024 report.

While we note with concern the allegations of non-compliance with the Convention, Australia welcomes ongoing cooperation on these issues with the Government of the Kingdom of Cambodia.

Australia works in partnership with Cambodia through our development program to provide practical support to promote trade union and worker rights in Cambodia.

For example, we support the ILO/Care International's Better Work Cambodia program – specifically their focus on countering gender-based violence, and on factory workers through ActionAid to facilitate the decent work agenda.

Our statement at the United Nations Human Rights Council (10 October 2023) called on Cambodia to release detained human rights defenders and union leaders and drop the charges against them.

During Cambodia's Fourth Cycle Universal Periodic Review on the 8th May this year, we raised our concern about restrictions on civic space, freedom of expression, association, and assembly.

We continue to encourage Cambodia to ensure laws and their implementation are consistent with international obligations, including by reviewing the Law on Associations and Non-Governmental Associations and the Law on Trade Unions.

We request the Cambodian authorities to take the necessary measures to address the concerns raised in this case and ensure the fundamental rights of Freedom of Association and the Right to Organise are respected and implemented under the Convention's obligations.

Worker member, IndustriALL (Mr ÖZKAN) – I am speaking on behalf of IndustriALL Global Union. My organization represents 9 sectoral unions, including textile and garment industries in Cambodia. There are still obstacles to the exercise of the right to freely join a union in the country.

The use of fixed-term contracts for anti-union purposes remains widespread and systematic. Labour law provisions on conversion of fixed-term contracts to permanent contract or unfixed term contracts after two renewals within four years, under the Decree 50 are not enforced. Non-renewal of fixed-term contracts remains as the most convenient means to dismiss trade unionists and dismantle trade unions.

Data collected this year from 11 trade union federations in various sectors shows that at least 49 factories employing 34,000 workers failed to enforce the conversion of short-term contracts into permanent contracts. In addition, 630 elected trade union officers on fixed-term contracts were not rehired after having established a union.

Under the short-term contracts, many workers do not receive seniority bonuses, benefit from the enforcement of minimum wage regulations, and are at greater risk of discrimination, harassment, and dismissal if they join a union. They also suffer pregnancy-based discrimination, denial of maternity benefits and sick leave, and they often get fired for refusing to work overtime. The widespread use of short-term practices in factories exacerbates the difficulty of union organizing.

We expect the government of Cambodia to address the observations of the Committee of Experts concerning numerous obstacles to union registration and certification processes, and threats and harassment against trade unionists.

In the meantime, from outside of the country, there is a huge effort to support the development of economic and social progress in the country.

On a positive note, I wish to share with the committee that IndustriALL and global brands sign legally binding agreements supporting the collective bargaining and improvements in wages in the textile and garment industry in Cambodia. These ground-breaking binding agreements are currently being signed by major apparel brands and IndustriALL to support collectively bargained wages for garment workers in Cambodia.

This is a major step forward, the result of a collaborative process with brands, employers and unions in Cambodia, that puts in place legally binding commitments to support national collective bargaining. Global brands have legally committed to uphold their production volume in Cambodia and have committed to ringfencing labour costs to ensure higher item prices.

Employers and trade unions have been negotiating a template agreement to address improvements in industrial relations, wages and working conditions.

We call on the Government of Cambodia to take the necessary measures to ensure the full respect of freedom of association, in line with the recommendations of the Committee of Experts.

Worker member, International Union of Food, Agriculture Workers Association (Mr BUKETOV) – I speak on behalf of the International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations (IUF), with affiliates in 126 countries and representing over 10 million workers, to denounce the continued imprisonment of Chhim Sithar, the president of our affiliate, the Labour Rights Supported Union of Khmer Employees of Nagaworld (LRSU). In May 2023, a court sentenced her to two years in prison. Five others were given sentences of one and a half years, and three were given one-year suspended sentences. Her imprisonment, alongside the legal charges against other union leaders, is one of the latest in a decade-long effort to boost the union at the hotel-casino.

Her imprisonment has been denounced by nearly every committee of the ILO supervisory system. This year, the Committee of Experts, referring to this case, “urge[d] the Government to ensure that all trade unionists detained for undertaking legitimate trade union activity are immediately released.” In October 2023, the Committee on Freedom of Association also “urged the Government once again to ensure the immediate and unconditional release of Chhim Sithar and to furnish all judicial decisions in the sentencing of the LRSU leaders and members.” And just last year, the Committee of Experts “expressed deep concern at the arrest and imprisonment of trade unionists and others for exercising their civil liberties and expressing different political views from that of the Government.” Further, the UN Office of the High Commissioner for Human Rights and several governments have called for her immediate release. Yet, the Government remains unmoved.

Thus, the IUF has had no choice but to file OECD Guidelines complaints against the investment banks which have purchased bonds and stocks in the parent company of the hotel-casino. And, the investment banks are concerned. In the statement resulting from the mediation with a bank, the parties agreed that “workers should be able to exercise the right to freedom of association, the right to bargain collectively, and to strike, without fear of reprisals.” Furthermore, “imprisonment resulting from strike action is never acceptable.”

Trade unions, governments, investors and civil society organizations are all watching, and we are looking to Cambodia to change course and return to compliance with international standards in respect of the freedom of association. The IUF urges the Government to release Chhim Sithar immediately. The Government must also ensure that the workers at the hotel-casino are able to organize and conduct their activities in full freedom without interference from the government or retaliation from the employer. There are urgent issues at the hotel-casino which the union wishes to address through the collective bargaining process, including the union’s demand that more than one thousand unfairly terminated union

members be reinstated to their jobs. Workers in Cambodia deserve to freely access their right to organize and collectively bargain. We urge the Royal Government of Cambodia to ensure these rights are protected.

Government member, Cambodia (Mr SOM) – My delegation has taken due note of the view and comments made by distinguished delegates and speakers. The constructive comments and perspectives shared at the Committee will be conveyed back to Cambodia for serious consideration, aiming to further enhance the environment for the exercise of freedom of association, although some of the comments are not agreeable to us.

My delegation would like to reassure that, in honouring our obligation under the Convention, we have consistently engaged closely with our social partners to promote the exercise of freedom of association and to sustain harmonious industrial relations with technical support from the ILO. My delegation wishes to reaffirm our commitment to continuing these collaborative efforts. Regarding the legislative issues raised during the discussion, my delegation wishes to emphasize that drafting the process as characterized by a series of comprehensive tripartite consultation, allowing both employers' and workers' representatives ample opportunity to provide their input. Their contributions were carefully considered and balanced to ensure a fair approach. We reassure that our processes are meticulously balanced and to that, no significant issue or challenge has been reported.

From the observations and comments from some speakers, we found that they did not refer to the latest amendment to our Law on Trade Unions. The concern was related to the old version of the Law, therefore, I would like to humbly request our speakers who are concerned about the legislature related to the Law on Trade Unions to refer to the latest version of our amendment for reference.

To support ongoing dialogue and address any concern, we have established multiple platforms where our social partners can voice their concerns and participate in further consultation, especially through the quarterly meeting with trade unions, which has so far been conducted two times since the beginning of the new Government in the 7th Legislature of the National Assembly in September 2023. Further evidence is the adoption of the Law on Trade Unions in 2016 and its amendment in 2020. The three milestones were achieved through extensive tripartite consultation enriched by insight from ILO experts. These changes were pivotal in simplifying and streamlining the registration procedure for trade unions, significantly, leading to the increase in the number of registered trade unions. As of March 2024, as recently reported, we have registered 6,317 professional organizations, 1,061 out of which have been registered since the amendment of the Law on Trade Unions in 2020. Notably, since the amendment, the new registration rate has remained stable yet progresses, with 228 new professional organizations registered in 2020, 262 new professional organizations registered in 2021, 268 new professional organizations registered in 2022 and 258 more were registered in 2023. And from January to March 2024 alone, an additional 45 new professional organizations have been registered. This statistic not only demonstrates a robust and (spanning?) landscape of professional organizations but also underscores our steadfast commitment to freedom of association. To address the concerns of a few trade unions – they still may complain about the difficulty in registration – my delegation would like to re-appeal through the ILO to provide technical support to the Ministry of Labour and Vocational Training in organizing capacity-building training for trade unions on the registration process.

As the matter of Case No. 2318, we fully understand the concerns regarding the need to conclude this long-pending case, but we would also like to urge other parties to take into consideration that the case is a bit challenging for us because the victim did not cooperate with the re-investigation process. The situation of the incident place has already changed and the

witness disappeared because some of them pass away, some of them move to live in other countries, and some of them also could not be found. Despite this obstacle, we remain committed to ensuring justice and accountability for the victims.

In respect of the right to strike, my delegation would like to reaffirm that Cambodia firmly upholds the constitutional right to strike, a commitment that is also reflected in our national law and adherent to international instruments. However, it is essential to recognize that these rights are not absolute and must be exercised within the boundary of legal frameworks, ensuring that they do not compromise public security or infringe the rights of others. These conditions actually conform to the principle of the Convention and other UN human rights instruments.

Regarding trade union protection, we remain firm that the principle of freedom of association does not provide a world for criminal activity purportedly connected the guise of exercising labour rights. Our judicial processes are guided by principles of due process and independence, with decisions based also on evidence. We strongly support that trade unionists should not be intimidated, arrested or prosecuted for their legal activities, I would like to repeat, for their legal activities. Yet, we are not convinced that they should be entitled to impunity for their illegal activities. None of us has the authority to decide the legality or illegality of the trade union activity in any jurisdiction. It is the sole discretion of the court to decide it based on the merit of the case and the prevailing laws. In this regard, the court decision in Cambodia is made, not based on who the perpetrators are but on what they have done. This stand is supported by the Committee on Freedom of Association which agreed that adherence to legal statutes is mandatory. Additionally, Article 29 of the Universal Declaration of Human Rights reinforces our position by stating that – I would like to quote – “In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and

freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.” In Cambodia, I would like to re-emphasize that no individual has been arrested or convicted solely for participating in union activities. Each citizen is subject to the law equally, with judicial action based solely on the nature of criminal offence, irrespective of the individual identity or affiliation. The principle of accountability is crucial in ensuring that union rights are not misinterpreted as impunities. This must be upheld. This principle must be upheld.

This balanced approach highlights the independence of our executive legislative and judicial branches, and reaffirms the Government’s commitment to non-intervention in judicial proceedings. Through such merits, Cambodia continues to safeguard legitimate union rights while also protecting the rights of others and maintaining national order and security. This ensures a stable and just environment where all parties can thrive.

With respect to the use of police during the strike, we would like to clarify that, like in other countries, the police force had the responsibility to ensure security and public order. In Cambodia, the police force does not take any action if the strike is peaceful but if the strike turns to be violent by blocking the public road and destroying public and private property, it is the role of the police to enforce the law to restore social order. However, to address this concern, we would like to repeat our strong request to the ILO to provide technical support to the Royal Government of Cambodia in establishing the guidelines for the police force in responding to peaceful strikes and demonstrations.

Regarding the trade unions dissolution, I would like to clarify that as of now no trade union has been dissolved, according to our statistics. The provision of the Law on Trade Unions provided, the trade union is dissolved only when the enterprise is totally closed and all benefits of workers are totally clear. As the Labour Law, if the Trade Union Law provides the trade union

at the enterprise, is established to represent workers in their enterprise levels. So when there is no such enterprise anymore, it's not practical to require the trade union to continue to exist, because there is no worker to represent, there is no member, there is no employer. What we want to have is the quality of the trade union or we want to have the number of trade unions.

I believe everyone wants to have the quality of trade union, not the number. So it is not practical to suggest, to require, to request the trade union to continue to exist when the enterprise is totally closed and all the benefit workers have been cleared, according to the Law.

On the issue of 2014 peaceful demonstration, I don't know how to define the word peaceful. When workers block the road at night, destroy private and public property. So I would like to suggest to the Committee to review the word "peaceful demonstration", with regard to the incident which happened early 2014.

Regarding the civil and domestic worker, I would like to emphasize that Cambodia does not provide only one way for workers to form a trade union. We have many ways. Civil servant, domestic worker, although they are not entitled to the right to set up or lead a trade union, under the Law of Trade Union, but they have the right to form the association and the laws. And this is not again the Convention, if there is any clause in the Convention specifying, providing that all the exercise of the right to freedom of association, must be made under only one law, then Cambodia would consider to rewrite our Trade Union Law, to comply with that. But if there is no such requirement, what we want to have is the trade union or the freedom of association. If you want to have the trade union account, the civil servant, the domestic worker cannot form the trade union, but if you want to see only the freedom of association, to be exercised freely in the country. It should not be limited to only one law. As long as the law provide them the right to exercise the freedom to form their own association of trade union.

With regard to financials audit, regarding financial audit, I would like to emphasize that the Law on Trade Union after the amendment, did not require the trade union to submit their financial report to the Government anymore and the financial audit is only requested, can only be requested by their members or by their donors. So the Government does not have the right to order the financial audit for the financial report of the trade union. So it depends on their members, or their donors and this obligation is not exceptional. Every organization receiving the funding from donor, receives a contribution from their member. They are accountable before their donor. So if their donor requires them to have the financial audit on their financial report, it's not strange. So, we don't understand why this is a problem because it is actually common practice. I believe even the ILO is also subject to the financial audit when requested by the donor. So it's not exceptional when our Trade Union Law required the financial report of the trade union to be audited when it is requested by their member or by their donor.

Regarding the arbitration council, we keep receiving the same concerns but the situation is completely different. We appreciate that many countries raise about the Arbitration Council. What we want to tell you is that, the Arbitration Council is in danger now because the funding from two donors, from Sweden and USAID, will be over by the end of this year. And from January 2025, the Arbitration Council will only have the funding accounted for 15 per cent of the total expenditure. So, what will happen in the near future is that the Arbitration Council may die because there is no funding. So what we are talking about now is keeping the Arbitration Council independent, but why don't we talk about its sustainability. To address this issue, just for your information, the Government had met with the Arbitration Council several times and it was agreed that the Government will maintain our position to finance this traditional body, if there is no funding from any donor, to make it sustainable after the end of 2024, and in regard to the independence of the Arbitration Council, I would like to emphasize that the Government understands that the value of the Arbitration Council is their impartiality,

their independence in their decisions. So we will not compromise this value by just giving them the financial support in order to take over their independence and impartiality. So, this must be taken into account when we talk about the Arbitration Council.

Chairperson – A vote on the abrogation of four Conventions is scheduled to be held through an electronic system today. The vote was open at 12 a.m., Geneva time and will be closed by 6 p.m., today.

An email was sent to all persons entitled to vote. Delegates can do so using their own devices, a personal computer or smartphone, or on a voting station available in front of Room XX in Palais des Nations and in front of GB Room, in the ILO building. The Secretariat will be present at both locations to provide any assistance needed.

I encourage you all to exercise your right to allow the Conference to take all these important decisions.

Membres travailleurs – Nous réitérons notre profonde préoccupation face à la persistance des actes de violence commis à l'égard des travailleurs et des arrestations de syndicalistes en lien avec leurs activités légitimes et pacifiques. Nous regrettons qu'aucune action sérieuse et rapide n'ait été entreprise pour enquêter sur ces actes et que les coupables ne soient pas poursuivis et condamnés pour leurs crimes. Il est temps que le gouvernement enquête sur l'ensemble des faits de violence à l'égard de travailleurs et de syndicalistes qui lui sont rapportés, sur les détentions arbitraires subies par les travailleurs et leurs représentants syndicaux, ainsi que sur les faits de meurtre commis à l'encontre des leaders syndicaux Chea Vichea, Ros Sovannareth et Hy Vuthy. Le gouvernement doit garantir que l'exercice pacifique de la liberté syndicale ne soit soumis à aucune forme de répression dans le pays.

Nous avons entendu que les actes de violence ou de dégradation au cours d'actions collectives n'échappent pas à l'application de la loi. Ce que nous dénonçons, c'est l'utilisation

abusive par les autorités de dispositions pénales pour réprimer l'exercice légitime et pacifique d'activités syndicales couvert par la convention. Et nous regrettons de devoir constater que c'est bien trop souvent le cas au Cambodge. Beaucoup de syndicalistes font l'objet de poursuites judiciaires. Les derniers exemples en date sont la condamnation et l'emprisonnement de la présidente du LRSU, Chhim Sithar. Il en est de même pour le président d'une fédération syndicale, Morn Rithy. Le groupe des travailleurs leur adresse toute sa solidarité.

Il conviendra que le gouvernement fasse le point sur l'ensemble des poursuites en cours à l'encontre de syndicalistes, en consultation avec les organisations syndicales concernées. Toutes les charges retenues ou les condamnations prononcées contre des syndicalistes ayant menés des activités syndicales légitimes doivent être abandonnées. Le gouvernement prendra toutes les mesures nécessaires pour que de telles poursuites et condamnations n'interviennent plus à l'avenir, en assurant notamment une formation régulière et systématique des inspecteurs du travail, des agents chargés de la résolution des conflits du travail, ainsi que des officiers de police. Des lignes directrices sur la police et la gestion des actions collectives ou de protestation seront développées à l'attention des forces de l'ordre, rappelant la nécessité de garantir l'exercice pacifique de la liberté syndicale.

Le gouvernement veillera à ce que tous les actes de discrimination syndicale fassent l'objet d'une enquête, que des réparations adéquates soient prévues et que des sanctions dissuasives soient appliquées. Nous recommandons au gouvernement d'amender la loi sur les syndicats, de sorte à garantir la conformité de la loi avec la convention. Le gouvernement abrogera l'exigence de connaissance du khmer pour accéder à une fonction dirigeante d'une organisation syndicale. Il abrogera également le paragraphe 2 de l'article 28 de la loi, qui prévoit la dissolution automatique d'un syndicat en cas de fermeture d'entreprise, ainsi que l'article 29, qui prévoit la possibilité pour toute personne de demander au tribunal la

dissolution du syndicat. Enfin, les articles 17 et 27 de cette loi seront également revus de sorte que les exigences disproportionnées en matière d'audits financiers soient levées. Nous demandons également au gouvernement de prendre toutes les mesures législatives qui s'imposent de sorte à garantir le bénéfice de tous les droits dérivés de la liberté syndicale aux enseignants, aux travailleurs domestiques, aux fonctionnaires ainsi qu'aux travailleurs de l'économie informelle.

Le gouvernement examinera également avec les partenaires sociaux la possibilité de permettre la constitution de syndicats sectoriels ou par profession.

Il mettra en place des procédures d'enregistrement des syndicats qui sont simples, objectives et transparentes, notamment par la mise en place d'une base de données en ligne, en levant les obstacles pratiques à la formation et au fonctionnement des syndicats, en supprimant toute autorité discrétionnaire et en formant les fonctionnaires du ministère du Travail. Le gouvernement mettra en œuvre la feuille de route établie et simplifiera les modalités de suivi de sa mise en œuvre, en consultation avec les partenaires sociaux. Il veillera à identifier les domaines d'actions prioritaires et à établir un calendrier de réalisation des objectifs fixés.

Le gouvernement transmettra à la commission d'experts des informations sur les mesures prises pour modifier l'article 326 de la loi sur le travail et de fournir des informations sur son application dans la pratique.

Il sera fondamental que le gouvernement revoie les règles qui régissent l'exercice d'actions collectives, notamment en mettant fin à la pratique courante du remplacement des travailleurs menant des actions collectives et en cessant de prononcer des injonctions pour empêcher une action revendicative, alors que les syndicats ont respecté toutes les procédures. Le rôle du comité chargé de la gestion des conflits collectifs devra également être clarifié de

sorte qu'il ne puisse pas restreindre le droit légitime des organisations de travailleurs à mener des actions syndicales pour défendre les intérêts de leurs membres.

Le gouvernement veillera enfin à garantir que le conseil d'arbitrage soit une institution efficace et durable dans la résolution des conflits collectifs et que ses décisions soient contraignantes et effectivement mises en œuvre en droit et en pratique. De nouveaux arbitres seront recrutés et formés, et les confédérations et fédérations syndicales seront habilitées à y représenter leurs membres sans autorisation préalable.

Il nous paraît important que le gouvernement du Cambodge sollicite l'assistance technique de l'OIT pour mettre en œuvre les recommandations que lui adressera la commission. Afin de pouvoir assurer le suivi de la situation dès l'année prochaine, il conviendra que le gouvernement fournisse un rapport complet à la commission d'experts pour le 1^{er} septembre 2024.

Enfin, le cas du Cambodge a été identifié comme un cas de double note de bas de page par la commission d'experts, sur la base de critères qui établissent la gravité de la situation. Nous avons souligné et entendu, au cours de nos discussions, le caractère persistant des graves violations de la convention au Cambodge. Le climat de violence et d'impunité qui perdure reste une source de profonde préoccupation pour le groupe des travailleurs. C'est pourquoi nous demandons que le gouvernement accepte la venue d'une mission tripartite de haut niveau avant la prochaine Conférence.

Employer members – We have heard all of the comments made by all of the participants from the Workers, from the governments and from a range of others and taken careful note of those. This is, as the workers' spokesperson has just said, a long-standing case, and I think that we all accept that, the record shows that it has been heard and commented upon on many occasions. But we are also talking about, not quite a statute of limitations, but there are some

things that time passes by, and they become less of an appropriate focus than things that are happening now. And, as I said before, the long-standing nature of the case is one of the factors in its being labelled as a double footnoted this year. And a lack of progress in the view of the Committee of Experts, new allegations of violence or repression of trade union rights and, I think, probably the most tellingly of all, the lack of a report for this year, were factors that I think were weighed on the Committee of Experts' mind when it decided to double footnote the case. That said though, when you look at the individual elements of those particular factors, apart from allegations of serious repression of trade unionists and their rights, a number of the others have been looked at a number of times over the years and it is hard to see how they become more serious when the same effects continue to apply. So, just with that as a context, just going through some of the particular points that have been made, and I made the point earlier, that when we look at some of the instances or the allegations, it is very necessary to separate out what was done and who it was done by.

The fact that somebody who was arrested, happens to be a trade unionist does not, of itself, make it definitive that that person was arrested because they were a trade unionist, and it is very necessary for us, as a Committee, to look at these facts in the light of whether or not we have the appropriate jurisdiction to look at these things. If, for instance the person was arrested because they were throwing Molotov cocktails at a police line-up, then that, I would have to suggest is not something that we would have the purview or mandate to examine. That is for the criminal court of the nation concerned. On the other hand, if that person is arrested, purely and simply because they are standing on a podium in front of a gathering of otherwise peaceful trade union members, then that is a measure of suppression of freedom of association. So, these things are necessary to examine before this committee picks up the reigns and starts to examine it and I have to suggest that in a number of instances, including

in this case, we are not that clear, we do not have enough of that information and we are therefore making comment on something which ultimately may not be in our purview.

So, again, a contextual note, when we look at the case of Cambodia, when we look at other cases that are before us, we really do need this, and so I do echo the workers' request for more information, the workers have made a long list of requests for information and I think that those, in the main, are valid, because what we need to do in this Committee is to make our judgements or our calls on a true representation of whether or not something is transgressing the Convention that we are examining.

So, when we look at the overall situation in Cambodia we have seen, and we have heard instances of progress. We have seen that work being done by the government in a range of areas and I touch particularly on the issue of the ability of the forces of law and order to distinguish between what is peaceful and what is not. The training, for instance, that is required for the police and the law enforcement agencies when they are dealing with a public gathering for instance, and we note with pleasure that the government has in fact taken some steps in this regard to train people. What we would like to see and what we have not seen evidence of yet is that this is an ongoing feature of the normal day-to-day duties and training of such agencies.

What we have heard is evidence of some events and some programmes that took place with a specific number of people that have been trained. What we would like to see from the Employers' side, is that this sort of training and knowledge is imparted to people as a normal part of developing the skills as a law enforcement officer, so that they are constantly updated and equipped with the knowledge to make an informed judgement at the time they confront for instance a public gathering. With relation to the legal issues, there are a variety in listening to the Government in relation to, and I am sort of working backwards a bit here, in relation to

the dissolution of unions. One of the intriguing features about Cambodia is that the prevalence of its unions are enterprise based. In other words, one company, one set of workers, one union, one employer. That is not as common elsewhere in the world. And so, one of the things we need to appreciate in this Committee is that this not quite uniqueness, but this relatively unique feature of trade unionism is itself a fact on how some things work. And I can certainly take the Governments point that union, because of the enterprise in which its members set is gone, but that too, is not necessarily sufficient to say well, that justifies a law that says then that the union automatically goes. Because this can be that those workers can become associated with each other again under the guise of another employer, and the vehicle that has protected them in the past could easily be the vehicle that protects them in the future. So, I think there is a call for a review or appeal of the provisions that automate the process of dissolution and instead reflect what the Convention in fact requires is that the affairs of trade union organizations and employers are for them to regulate, including the dissolution. So those are the general points as far as the law is concerned. In relation to trade union registration, I think this is almost a comment back to the Committee of Experts in that their commentary that there continues to be difficulties with registration is not as reflected in the reality when you consider the vast expansion of the number of unions in Cambodia. That would suggest that registration there is almost too easy, because the rate of expansion, not just the numbers, but the rate of expansion would suggest that there are not as many obstacles as may be thought. That said, the direct contacts mission did make it a recommendation that ways of simplifying the process be found, by all accounts some of the bureaucracy involved is perhaps more than might be efficient but as a deliberate obstacle, there seems there is less evidence than would be suggested by reality so we would ask both on one end that the Government work on the simplicity of the process and of course we would suggest back to the Committee of Experts that they review their views on that particular matter. Overall, the

recommendations of direct contact mission to review and implement the roadmap and provide progress reports, the week has called for further reports on that by the reporting date for next year's conference which is 1 September this year. And with all of that in mind, this is really a case where it should not have been a double footnoted case and I suspect that perhaps not reporting last year was the thing that tipped the balance. This is a case that has gone on too long, it has features that perhaps should be looked at in a different light as I mentioned the fact that we need to distinguish between what is peaceful and what is not but all of those things together do not make this a case of serious deterioration, there is a case of frustration maybe, the fact that these things have gone on for so long, we have had the direct contacts mission in 2022.

It seems that there is a need to push the Government to get on with the things that have been recommended by the direct contacts mission, to get on with the things that they are already doing, and we have heard the evidence of the things that they have been doing, but with all of those things in mind, I think it is probably premature to call for something in the nature as clinical as a high level tripartite mission, as that as a process which is typically reserved for, where there are particular and serious issues that are clearly within the mandate of the Committee.

So I think that while that may in fact be the case that the Government is unable to resolve some of these issues, I think in the light of the more recent mission, this would be a premature call.

Chairperson – We have now concluded the discussion of this case. The conclusions will be adopted on Wednesday, 12 June in the afternoon.

The sitting closed at 12.25 p.m.

La séance est levée à 12 h 25.

Se levantó la sesión a las 12.25 horas.