



Plenary sitting

Report of the Committee on the Application of Standards

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Friday, 8 June 2018, 14.55 p.m.

Presidents: Ms Majali and Mr Elmiger

Submission, discussion and approval of the report of the Committee on the Application of Standards

The President

The next item that we have before us is the submission, discussion and approval of the report of the Committee on the Application of Standards, contained in *Provisional Records* Nos 9A(Rev.) and 9B.

I invite the Officers of the Committee – Mr Núñez Morales, Chairperson; Ms Regenbogen, Employer Vice-Chairperson; Mr Leemans, Worker Vice-Chairperson; and Mr Rochford, Reporter – to take their seats on the podium.

I now give the floor to the Reporter, Mr Rochford, to present the report. The other Officers will then take the floor.

Mr Rochford

Reporter of the Committee on
the Application of Standards

It is a pleasure and an honour for me to present to the plenary the report of the Committee on the Application of Standards. The Committee is a standing body of the International Labour Conference, empowered under article 7 of its Standing Orders to examine the measures taken by States to implement the Conventions that they have voluntarily ratified. It also examines the manner in which States fulfil their reporting and other standards-related obligations as provided for under the ILO Constitution.

The tripartite nature of the Committee makes it a unique setting for social dialogue on the application of international labour standards worldwide. That dialogue is enhanced by the experience and in-depth knowledge of all the constituents on social and economic issues.

The work of the Committee is based on the report of the Committee of Experts on the Application of Conventions and Recommendations, which carries out an independent and technical examination of the application of ILO Conventions by member States.

The report of the Committee now before the plenary is divided into two parts. The first part contains a general report, which includes a record of the Committee's general discussion and its discussion of the General Survey of the Committee of Experts. The second part comprises a detailed record of the Committee's examination of individual cases involving compliance with ratified Conventions, and the conclusions adopted in each case.

I will outline some of the main features of the Committee's discussions in respect of both parts.

The general discussion this year again emphasized the fruitful dialogue between the Committee on the Application of Standards and the Committee of Experts. It is now established practice for both Committees to have direct exchanges on matters of common interest. Accordingly, the Vice-Chairpersons of the Committee held an exchange of views on standards-related matters and the operation of the ILO supervisory system with the

members of the Committee of Experts at the latter's last session in November–December 2017.

The Committee also had the pleasure of welcoming the Chairperson of the Committee of Experts, Mr Koroma, to the sittings devoted to general discussion as an observer, with the opportunity to address the Committee. He shared with us a number of points relating to the latest improvements in the working methods of the Committee of Experts, and highlighted some challenges identified by that Committee in its 2018 General Survey concerning working-time instruments.

One of the key aspects of Mr Koroma's statement was the clear commitment by the Committee of Experts to maintain meaningful dialogue between the two Committees, in the interest of advocating and delivering an authoritative and credible ILO supervisory system and, ultimately, in the cause of international labour standards and social justice worldwide.

During the general discussion, reference was also made on various occasions to the informal tripartite consultations on the working methods of the Committee that have been carried out periodically since March 2016. Measures that emerged from those consultations continue to make a substantial contribution to the Committee's smooth operation during the two weeks of the Conference.

The latest measures agreed upon in November 2017 and March 2018 were intended to improve time management during the Committee's discussions and to modify its handling of the procedure for adopting conclusions in individual cases.

These revised working methods have assisted the Committee to carry out its work in a more effective and harmonious manner. There is always room for further improvement, and the informal tripartite consultations will continue to deal with other issues relating to working methods raised during these discussions.

Furthermore, the Committee welcomed the opportunity to discuss the General Survey concerning working-time instruments published by the Committee of Experts. It noted that the organization of working time has a major impact on workers' physical and mental health and work–life balance, their contribution to society, workplace safety and the competitiveness, agility, productivity and sustainability of enterprises.

The Committee recognized that finding an appropriate balance between the protection of workers and the needs of enterprises in the organization of working time remains an important goal for the realization of social justice. The Committee considered that this was all the more important in the context of the major process of change that the world of work is undergoing at the moment.

The Committee noted that transformations currently taking place in the world of work, facilitated by developments and improvements in technology and communications, were changing many of the traditional time and space dimensions in work and having an impact on its organization.

The Committee made particular reference to the emerging working arrangements, including telework and work through digital platforms. It noted that these arrangements were also being considered in the context of the Future of Work Initiative.

The Committee considered that the adoption of an appropriate regulatory framework on working time was important both to protect workers and to ensure a level playing field for employers. The Committee also noted that social partners, through social dialogue and collective bargaining, had an important role to play in setting rules and providing guidance

on working time, and thus in ensuring that working-time arrangements better meet the concrete needs of their constituent members.

The Committee also considered serious failures on the part of member States to comply with their obligations related to standards.

The Committee again stressed the importance of the obligation to submit reports and thus ensure an effective supervisory mechanism – accurate and timely information is key to the functioning of the system. In this regard, the Committee reminded member States of the valuable assistance that the Office can provide, at their request.

The last part of the Committee's work, and one of its key tasks, involved the examination of individual cases. This year, the Committee was able to adopt a list of 24 individual cases for discussion. In doing so, the Committee sought, as usual, to deliver a balance between the fundamental, governance and technical Conventions as well as a geographical balance and a balance between developed and developing countries.

All the governments listed, except one which was not accredited to the Conference, were present to discuss their cases. Although challenged by time constraints, the Committee was able to examine in depth 23 cases and adopt consensual conclusions with respect to all of them.

Therefore, I am happy to be in a position to report that the Committee was able, at this session, to conclude its work successfully.

In closing, I would like to thank the Chairperson of the Committee, Mr Núñez Morales (Panama), for his contribution to the work of the Committee and to acknowledge his considerable leadership in enabling the Committee to complete a formidable agenda. I would also like to thank the Employer Vice-Chairperson, Ms Regenbogen (Canada), and the Worker Vice-Chairperson, Mr Leemans (Belgium), for their expertise and collaborative spirit. I would also like to pay tribute to the Office for its dedicated work and high-quality support to our Committee during these two weeks. As always, the secretariat was diligent, professional and courteous in every engagement with the Committee members. In particular, I would like to commend the representative of the Secretary-General of the Conference, Ms Vargha, and her team for their contribution to the Committee. I would also like to acknowledge the contribution of the interpreters and translators, and indeed the interns, in helping this Committee to achieve its goals. With these words, I recommend to the International Labour Conference at its 107th Session that it approve the report of the Committee on the Application of Standards.

Ms Regenbogen

**Employer Vice-Chairperson of the Committee
on the Application of Standards**

On behalf of the Employers' group, I would like to endorse the report of the Committee on the Application of Standards and recommend its adoption. This year the work of the Committee once again took place in a constructive and open atmosphere. While we have within the Committee divergences of opinion on the interpretation and application of certain Conventions, these were voiced in a spirit of mutual respect and as a reflection of the Employers' continued commitment to a robust, effective and balanced supervisory system.

Despite the tight schedule, the Committee was able to successfully conclude its work on time thanks to the effective time management by the Chairperson and the full cooperation of delegates. This year the Committee once again demonstrated its ability to lead a meaningful, rich, relevant and results-oriented tripartite dialogue and adopt clear, consensual and straightforward conclusions.

This work is fundamental to the guidance provided to member States regarding compliance with their international labour standards obligations. As the Reporter explained, the work of the Committee involves three distinct components: a discussion of the general section of the Committee of Experts' report; a discussion on the General Survey; and a discussion of individual cases relating to member States' compliance.

In the discussion of the general section of the 2018 Committee of Experts' report, the Employers had an opportunity to highlight what they consider to be the positive elements in that report. We took this opportunity on behalf of the Employers to make a number of proposals designed to continue working to improve the transparency, effectiveness and relevance of the tripartite governance of standards supervision.

The Employers note that this discussion of member States' compliance with their international labour standards obligations is based on the Committee of Experts' observations. To this end, the Employers' view is that there is a need for further efforts by the Committee of Experts to make their report more user-friendly. The users of the report need clear and up-to-date presentations of the issues in question. The comments made by the experts should be based on sound and balanced analysis and should explain the compliance problems in an easily comprehensible manner. Recommendations for remedial action should be straightforward, concrete and verifiable.

The experts' observations must continue to be based on up-to-date, accurate and balanced information. In a spirit of continuing to improve the transparency of the supervisory system, the Employers made comments with respect to the Committee of Experts' designation of certain cases as "double-footnoted", thereby denoting the seriousness of the case. The Employers have proposed that the experts elaborate on the reasons why a case has been double-footnoted and proposed further discussion of this issue within the subcommittee on working methods.

Taking into account the workload of the Committee of Experts, which is considerable, we also raised a question about that Committee departing from the regular reporting cycle to consider a case outside either the three- or five-year reporting cycle. And while we recognize that the Committee of Experts has this authority, we believe that this should be used only in exceptional cases and that, when the reporting cycle is broken, the experts should provide information on the reason for the early analysis.

In a spirit of endeavouring to continue improving the working methods for the consideration of individual cases in the Committee on the Application of Standards, the Employers proposed improvements in the use of "D" documents and encouraged the earlier supply of updated information by member States and the transparent sharing of this information by the Office to allow the tripartite constituents to more efficiently prepare Committee discussions in advance.

In the general discussion, the Employers also identified a number of areas in which we believe that there is room for continued improvement.

First, the Employers noted the ongoing significant failure of governments to comply with reporting obligations and the ineffectiveness of remedial action taken by the Office. This is a significant issue which we will continue to monitor and discuss.

Second, the Employers considered that there was an insufficiently clear distinction between direct requests and observations issued by the Committee of Experts. In this regard, the Employers noted that some comments within direct requests contained assessments of compliance and recommendations, and that because direct requests are not included in the Committee of Experts' report they do not form the basis for the discussion and for our work in the Conference Committee. So in the spirit of wanting to ensure transparency and good

governance, we are of the view that direct requests should be requests for more information and should not deal with substantive issues of compliance.

Third, the Employers expressed concern in one case where the Committee of Experts had failed to take into account the conclusions on the application of standards from the discussion held in a previous year. This involves the case of Ireland, where the Committee on the Application of Standards in its conclusions called for joint action by the Government and the social partners on the matter in question, and when the Government took unilateral action the experts noted this action with satisfaction. Therefore, we use this case to highlight our continued recommendation that the Committee of Experts take into account and carefully consider the Conference Committee's conclusions.

Another area of concern that the Employers noted in the general discussion was the ongoing interpretation of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), by the Committee of Experts, despite disagreement and a lack of support by Members within the ILO tripartite constituency for this scope of interpretation. In the light of the experts' observations in individual cases and to avoid any misunderstanding of the Employers' position, we wish to simply reiterate our position that we do not believe that a connection between an express right to strike and Convention No. 87 exists. To be clear, while the Employers' group recognizes a right to industrial action, we consider that the right level to set detailed rules on this sensitive matter exists at the national level.

Moving on to the next component of our work, we had a full and robust discussion of the General Survey, which this year focused on law and practice in relation to 16 ILO working-time instruments.

In this respect, the Employers noted that the organization of working time has a major impact on the physical and mental health of workers and also on the competitiveness, agility, productivity and sustainability of enterprises in an increasingly integrated and competitive economy.

As the world of work becomes more dynamic, working-time regulation has to adapt and in doing so maintain a fair balance between the protection needs of workers, on the one hand, and the needs of enterprises to respond to a changing world of work, on the other.

The social partners have an increasingly important role to play, through consultation and dialogue, in designing and providing guidance on innovative rules and practices regarding working time.

During the rich discussion, many governments and social partners took the floor and intervened, demonstrating the diversity of approaches on this issue at the national level and highlighting the fact that a number of these ILO instruments on working time were out of date, unduly detailed and overly restrictive.

We look forward to continued discussion and debate on these issues and have made proposals for the modernization and possible consolidation of these working-time instruments.

Turning then to the final component of the programme of our work, we actually examined 23 cases of member States' compliance with their international labour standards obligations, on the basis of the adopted list of 24 cases. In establishing that list, the social partners considered efforts to ensure a balance in the types of Conventions supervised and the seriousness of the issues, and consideration was given to regional balance as well as to the level of development of countries within a region. Of the cases actually examined, 16 related to fundamental Conventions, four related to governance (priority) Conventions

and three related to technical Conventions. We think that this is an important piece of information because it demonstrates the attempt to look at different types of Convention (fundamental, governance and technical) within the work of our Committee.

There were a number of cases that were of particular concern to the Employers' group this year.

The first was the case of the Plurinational State of Bolivia in respect of its application of the Minimum Wage Fixing Convention, 1970 (No. 131). In the Employers' view, this was a serious case of non-compliance with the technical Convention involving the failure of the Government from 2006 to 2018 to consult the most representative employers' organizations and to consider economic criteria in setting the minimum wage. We welcomed this opportunity to highlight the Employers' very serious concerns regarding this matter.

We also noted concern in respect of the case of El Salvador. Among other things, this case dealt with the failure to reactivate the Higher Labour Council and with significant deficiencies in social dialogue, despite an ILO direct contacts mission in 2017.

We also had serious concerns over Serbia's application of the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144). The experts' observations clearly highlighted the lack of consultation by the Serbian Government with the Serbian Association of Employers on the standards-related topics covered by the Convention.

Another case of concern for the Employers' group was the case of Greece and its compliance with the Right to Organise and Collective Bargaining Convention, 1949 (No. 98). This was one of the most important cases for the Employers this year and focused on the issue of unilateral recourse to compulsory arbitration, which is a key part of Greek law. In brief, Greek law grants to any collective bargaining party the right to have unilateral recourse to compulsory arbitration, which settles a dispute or resolves an issue relating to a collective agreement. The Employers' concern with this case focused on the conflict between this kind of unilaterally used system and the principle of free and voluntary collective bargaining, which is the underlying principle of Article 4 of Convention No. 98.

We regret very much that it was not possible to discuss the case of Samoa in the usual way. As the Reporter mentioned, the Government was not registered or accredited to the Conference and we were unable to have a discussion about what is a very serious case of non-compliance with the Worst Forms of Child Labour Convention, 1999 (No. 182).

In the case of Brazil, the Employers noted concern at the fact that the Committee of Experts issued an observation outside the regular reporting cycle and that this observation appeared to be based on incomplete information. During the discussion of the case of Brazil, which dealt with the modernization of the labour relations system, the Employers expressed the view that this labour reform is in compliance with Convention No. 98 and the principle of free and voluntary collective bargaining, and that it was undertaken in full consultation with the social partners. The Employers also noted with interest that the aforementioned reform is starting to show positive results in terms of employment creation in the country.

In addition to the cases discussed, we wish to take this moment to express our concerns at the lack of implementation of our Committee's conclusions adopted last year in relation to the Bolivarian Republic of Venezuela in respect of the Employment Policy Convention, 1964 (No. 122), and the Committee's conclusions adopted in 2011 in relation to Uruguay's application of Convention No. 98. We are bound to note at this moment that this lack of progress is regrettable and we will continue to monitor the situation in both countries.

The Employers' group highlights again this year the way in which the conclusions were drafted in the individual member States' cases. We saw real ownership by the social partners

of the outcome of the Committee on the Application of Standards. Conclusions reflected only those recommendations which attracted consensus. It is clear that we remain committed to the adoption of short, clear and straightforward conclusions. These conclusions identify what is expected from the governments to apply ratified Conventions in a clear and unambiguous way. Conclusions reflect concrete steps to address compliance issues. Conclusions will no longer repeat elements of the discussion or reiterate government declarations which can be found in the opening and closing of the discussion set out in the *Record of Proceedings*. The CAS has adopted conclusions on the basis of consensus and those conclusions fall within the scope of the Convention being examined. If the Employers, Workers and/or Governments had divergent views, this has been reflected in the *Record of Proceedings*, not in the conclusions.

Controversial issues and disagreements continue to exist but they are not reflected and accordingly not covered by the conclusions. As already indicated, these divergent views on issues are set out in both Part 1 and Part 2 of the Committee's report (the general report and the discussion of individual cases, respectively).

I want to take this moment to express the Employers' view that the tripartite constituents should be very proud of the active and constructive engagement of the social partners in this regard. This is a key element of the work of this Committee and we are of the view that it is functioning extremely well and our work in this regard should be supported.

We would like also to take this moment to place emphasis on the importance of the follow-up to the conclusions of the Committee on the Application of Standards. Because this is a key facet of tripartite governance, we consider that the Office's technical assistance and follow-up missions should focus on matters which are the subject of consensus among the constituents and that the conclusions should provide the basis for the mission or work carried out at the national level.

We also believe it is important that the International Labour Standards Department (NORMES) should include ACT/EMP and ACTRAV specialists in the preparation and implementation of the conclusions and should also consult the Employers' and Workers' secretariats. Such consultation is to ensure that the most representative employers' and workers' organizations in the country are well prepared to contribute to the success of the respective missions, and to ensure that those national employers' and workers' organizations have the capacity to provide the most up-to-date and relevant information.

In conclusion, the Employers are positively satisfied with the operation of this year's discussion and the work of the Committee on the Application of Standards. Rich and meaningful discussions were held, consensus was reached where possible, and disagreements were highlighted where needed in a respectful and constructive spirit.

The Employers' group always sees room for continued improvement and we believe that this is a hallmark and an indication of our continued support for the supervisory system. So you will hear the Employers making proposals and standing committed to principles to continue to improve the transparency, relevance and effectiveness of tripartite governance within the ILO supervisory system. We invite all Committee members, governments and the Office to consider them in an open and constructive spirit.

The 2018 session of the Committee was the last one before the ILO centenary. The Employers' group takes this moment to acknowledge that this imminent landmark anniversary gives us an opportunity to continue committing to the improvement of the transparency, efficiency and relevance of tripartite governance within the ILO supervisory system.

It is the Employers' view that next year at the centenary we should focus also on the issue of progress within member States regarding the application of ratified Conventions in law and practice. We believe that not using the possibility that we have in the work of our Committee to highlight best practices and showcase government efforts in consultation and cooperation with the social partners would be a missed opportunity.

So you will hear us raise this issue because we think it is very important to create a way in which we can showcase good practice, in so many countries, in the application of their international labour standard obligations. An opportunity to commend that work in a tripartite manner would encourage countries' increased compliance with their international labour standards obligations. It would also show the world of work that our Committee has a real impact outside these halls.

I would like to conclude with words of thanks and appreciation for the efforts of the representative of the Secretary-General and her team in NORMES. They work extraordinarily hard to ensure that the work of our Committee is supported.

Special thanks also go to our Chairperson for his fair, orderly and parliamentary running of the Committee's meetings this year, for steering the ship even through difficult discussions and for his excellent time management.

Furthermore, we thank our Reporter, who ensured that the Committee's work was properly placed on record this year.

Please allow me also to thank my Employers' group. I have a dedicated team of employers who have attended the Committee on the Application of Standards for many years. Without their support, dedicated attendance and participation, my job would be much more difficult than it already is. So I thank Mr Moyane, Mr Mackay, Ms Hellebuyck, Mr Mailhos, Mr Echavarría, Mr Ricci, Ms Bârsan, Mr De Meester, Mr Etala and Mr Munthali for their help in preparing and presenting the cases and the General Survey. Thank you for making me look good.

I would finally like to express gratitude to Ms Anzorreguy and Ms Robert of the International Organisation of Employers and to Mr Hess and Ms Palmi Reig from ACT/EMP for their inestimable support, as well as to Ms Cano Prentice and Mr Hotham for their dedication to our work.

Last but of course not least, let me thank Mr Leemans, my Worker counterpart, and his strong team for their constructive collaboration and spirit of mutual respect in which we have conducted our discussions, expressed our views and worked towards contributing to meaningful compliance with international labour standards.

Finally, let me thank the interpreters for their efforts to make sure that we are all understood.

Mr Leemans

Worker Vice-Chairperson of the Committee
on the Application of Standards

This year I have the honour once more of co-chairing the Conference Committee on the Application of Standards, and I wish to thank the Workers' group for the confidence placed in me.

The presentation of the report of the Committee to the plenary of the Conference provides an opportunity to take stock of the progress made this year and to take up some more general questions.

I would like to recall that the task of the Committee on the Application of Standards is a fundamental one. Through the influence it exerts on the application of international labour standards, the Committee plays a part in fulfilling the founding purpose of promoting social justice to which the ILO dedicated itself at its creation. On the eve of the centenary of the Organization, it is more fitting than ever to recall the fundamental character of that task.

The Committee began its work with a general discussion. This was an opportunity for the Workers' group to recall that, in order to ensure the consistency and stability of the supervisory mechanisms of the Organization, their cohesion and harmony must be protected as well.

The two supervisory pillars of ILO standards are the Committee of Experts on the Application of Conventions and Recommendations and the Conference Committee on the Application of Standards. As you know, the way pillars work is that they are independent from each other but both designed to hold up the same building. And if one of the pillars happens to be weakened, not only will the second pillar feel the effects but the whole building may collapse. The same goes for the Committee of Experts and the Committee on the Application of Standards.

If I had to sum up in three words the bond that unites these two pillars, I would say: independence, respect and dialogue. Independence and respect are not an impediment to engaging in the necessary dialogue to ensure the coherence of the supervisory mechanism as a whole. And dialogue can take place directly, which is what happens when the two spokespersons are invited by the Committee of Experts to a special meeting, or when the Chairperson of the Committee of Experts attends the meetings of our Committee.

But dialogue can just as easily take an indirect form. This is what happens when, during the discussions of our Committee, reference is made to the interpretations and reports of the Committee of Experts, or when the latter concerns itself with the follow-up to our conclusions. However, the dividing line between dialogue and interference is sometimes a fine one and our Committee must take care to respect it. In that regard, the Workers' group cannot accept that the work of the Committee of Experts should be constantly challenged. Some people have even gone as far as to disparage the observations made by the experts. Yet it is beyond dispute that the experts' task is defined by the very clear mandate given by the International Labour Conference and reproduced in the report of the experts.

The Committee of Experts has been heavily and repeatedly criticized for taking the opportunity to request a report outside the normal reporting cycle. But paragraph 64 of the experts' report nonetheless recalls clearly and unequivocally the circumstances in which the Committee of Experts may choose to interrupt the reporting cycle.

It is perfectly legitimate for a member to challenge the observations of the experts, but this should be done with due respect for the work accomplished. Furthermore, we regret that very few governments have taken the trouble to recall these elementary facts. It has to be said that the challenges to the work of the experts had nothing to do with them overstepping their mandate but were designed to intimidate the Committee and denigrate their activity, which is unacceptable.

Similarly, some speakers went even further and claimed, in the course of the work of our Committee, that our Organization was being manipulated. Such statements discredit those who deliver them. They say a lot about their discomfort at their own situation, in which they are obliged to explain to our Committee the violations for which they have been reproached.

Such statements aim, above all, to be a distraction and ensure that the discussion gets bogged down in deliberations which have nothing to do with the observations put forward

on the case in question. The ILO's standards supervisory bodies can be compared to thermometers. When a fever is rampant in the body, no one would think of challenging the readings of the thermometer, however unwelcome they may be. Instead, reason dictates that effective treatment is sought for the problem presented.

After the general discussion, the work of our Committee continued with the discussion of the General Survey. This provided the opportunity for an interesting exchange on the extremely important issue of working time, the subject of this year's Survey, and the Reporter of the Committee has already had occasion to comment on it.

Our Committee then had the opportunity to examine the individual cases, and the list of cases that we adopted at the beginning of our work was a consensual list. The list comprised 24 cases of serious failure to comply with fundamental, governance and technical Conventions, and our Committee was faced this year with a very special and deeply regrettable case.

In fact, the case of Samoa could not be examined owing to the fact that the country did not have accreditation for the Conference. Consequently, only 23 instead of 24 cases could be discussed by our Committee. With such a short list of cases examined by our Committee by comparison with the number of serious violations of international labour Conventions recorded in the experts' report, this was a real opportunity lost for an in-depth examination of a case of serious violation of international labour Conventions.

Even though the Workers' group was bound to be contented with the consensual adoption of the list of individual cases, the inevitable disappointment that this list elicited in some Worker members, who were expecting much from the examination of their cases by the Committee only to find that they did not appear on the list, has left a certain blemish. Allow me to give them a few moments, even though they deserved to have their situation addressed at greater length.

The workers of Bangladesh have been exposed over and over again to harsh repression by the State, in particular to intimidation and the violent repression of peaceful demonstrations.

Despite the examination of this case at almost every session of our Committee since 2000, the Government has done nothing more to guarantee the protection of the right to freedom of association, while its repeated failures to meet its obligation to bring its law and practice into conformity with the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), leaves us wondering whether this case should not be the subject of a complaint under article 26 of the ILO Constitution. In this regard, we will monitor developments in the country closely in the course of the year to come.

Democracy in Turkey is still in crisis. The state of emergency has placed civil liberties and fundamental rights at work in grave peril. Arrests and dismissals of trade unionists without due process have become commonplace. In addition, the Government has prohibited many demonstrations in the glass and metal sectors on the grounds of a threat to national security. We will also closely follow changes to the situation in Turkey.

The case of Malawi also deserved to be addressed given the very worrying predicament of children who are regularly put to work in alarming conditions, including on tobacco and tea plantations.

In addition, we are concerned about the state of inspection services in Pakistan. This situation would have merited a discussion to highlight the serious violations of the Labour Inspection Convention, 1947 (No. 81), in this country despite the two examinations of this

case by our Committee in 2013 and 2014. More broadly, the situation of inspection services throughout the world is especially troubling.

The situation in Kazakhstan is also a source of concern for the Workers' group. We insist – and will continue to insist – that the Government take action in response to the numerous questions, including from our Committee, so as to guarantee workers the freedoms and fundamental rights to which they are entitled.

There are many other countries that deserve mention but there are just too many of them, which indeed reflects the troubling state of the fundamental rights of workers in the world. This fact should give rise to the most scrupulous vigilance on the part of our Organization.

Some governments have continued to challenge the process for drawing up the list of cases, failing to understand the reasons why they appear on such a list. As we do every year, we wish to remind them that the list of criteria applied to the selection of cases is provided in the working documents of the Committee. With my counterpart from the Employers' group, I also convene a special meeting, immediately after the adoption of the list of cases, for the benefit of the governments concerned, so that they may ask all the questions they wish regarding the drawing up of the list of cases and, if need be, the reasons why they appear on the list.

All these measures are apparently still not enough for some governments. They also demand the right to intervene in the preparation of the list or even in the drafting of the conclusions. I think it is important to recall a very elementary fact. Our Committee is tasked with evaluating the application of ILO standards by member States. To assign a more important role to the latter in the preparation of the list of cases and in the drafting of the conclusions would amount to granting them the role of both judge and defendant. Moreover, what would be left of the Committee's independence if States could decide on the composition of the list of cases and the conclusions to be adopted? How could anyone fail to see all the obvious aberrations that would result from that? We invite those who make such proposals to show some responsibility.

The tripartism of our Committee is guaranteed by the opportunity given to States to come and explain themselves and present their observations. It is also guaranteed by the statements that States are permitted to make when cases are discussed. Some States play an active role, many of them do much less. I will come back to this point a little later.

Now that our work is done, I am glad that the Committee has again reached consensual conclusions on the cases before it. This is an important point that confirms the dynamism and vitality of our supervisory body. Of course, there are still differences of opinion between employers and workers, in particular on the fundamental issue of the link between Convention No. 87 and the right to strike.

In the course of the discussions, the Workers' group has had occasion to recall its position on this point and to confirm that, according to both its own position and that of the experts, the right to strike is guaranteed by Convention No. 87. All the same, our divergence of views with the Employers on this question has not prevented us from once again reaching consensual conclusions, and that is cause for celebration. To adopt conclusions is a good thing, but to see them implemented in practice is another thing, and that depends in large part on the good will of governments and their spirit of cooperation and collaboration. The fact that cases that have been examined at our last session are on the list again this year shows that these two ingredients are not always present.

The Workers' group of our Committee has invited the Governments concerned to show their determination by following up our conclusions. In some cases, implementation also

requires the valuable assistance of the Office, and on behalf of the Workers' group I would like to appeal for the necessary resources for technical assistance to be made available.

I would also like to congratulate the members of our Committee on the quality of the discussions and their many and varied contributions, which made for a rich debate, eliciting divergent views on many occasions, as is very much to be expected given the composition of our Organization. This specific feature represents added value which should be asserted and defended because it allows conflicting interests and points of view to come together around a common objective. It is from the opposition of ideas that progress is made. I would nonetheless like to see all the participating groups express themselves to a comparable extent and, in this regard, I must take this opportunity to express the disappointment of the Workers' group at seeing some governments, in their statements, display a complete lack of respect for workers. Some of them have even dared to make insulting comparisons which we can neither repeat nor accept. Serious discussions can only be conducted in an atmosphere of respect and courtesy.

Last year, we noted the emergence of a phenomenon that at that time we dubbed "violation diplomacy". This referred to statements by governments seeking to defend counterparts whose compliance had been questioned. That is evidently a legitimate right that we do not dispute. Yet those same governments happen to be far from exemplary in their respect for fundamental international labour standards in their own countries. And it is to be regretted that this phenomenon has resurfaced this year. A kind of negative solidarity is thus establishing itself among these States which is the complete opposite of the true spirit of our Organization.

Furthermore, I would like to commend the solidarity, the cohesion and the discipline demonstrated by the members of the Workers' group during the examination of some especially difficult cases.

I would also like to mention two matters which have tarnished our work and that call for attention. We have noted with regret that, during the examination of certain cases, some members of the Committee have seen fit to advise States to denounce Conventions referred to in the course of the examination. That type of remark goes completely against the very foundation of our Organization and its essential principles.

In addition, we have deplored the fact that some governments have threatened to denounce the ILO Conventions and to ratify no more of them if they continue to be challenged by the supervisory bodies. Apart from the fact that denunciation of the Conventions would not necessarily place them beyond the reach of supervision, it is important to emphasize how negative a signal this kind of attitude sends. It amounts to saying that some States would prefer to withdraw from our Organization simply to avoid being held to account regarding their compliance with these standards.

I would like to point out that ratification is not a superficial action intended to obtain international credit that is not at all justified by the social conditions within a country. On the contrary, it represents a commitment to the other constituents and implies that the member State concerned agrees to be subject to the supervisory mechanisms mandated to check that this commitment is honoured.

The Committee on the Application of Standards does not always have an enjoyable task. It does not have the satisfaction, as other committees do, of contributing directly to the elaboration of new rules aimed at achieving greater social well-being. On the other hand, it does have an imperative duty to take stock of the situation every year, to recall what is indispensable if the work done is not to be in vain and the march of social progress is to continue.

Mr Núñez Morales

Chairperson of the Committee on
the Application of Standards
(*Original Spanish*)

I am pleased to take the floor to make a few comments on the work of the Committee on the Application of Standards, which it has been my honour to chair.

First, I would like to highlight, as the Vice-Chairpersons have just done, the enormous amount of interest that the constituents of this Organization have shown in the work of the Committee on the Application of Standards.

It should also be noted that the various contributions and the constructive tone of the different interventions led to a rich and far-reaching discussion about the Committee's vision of the role it should play in the ILO supervisory system.

The Committee on the Application of Standards is a forum for dialogue where, based on the independent technical examination carried out by the Committee of Experts on the Application of Conventions and Recommendations, tripartite discussions take place on the measures that need to be taken for the effective implementation of international labour standards.

The conclusions adopted by the Committee help significantly in guiding member States in this task and contain specific measures to support the tripartite constituents in finding solutions that give effect to the Conventions both in law and in practice.

On this occasion, the Committee examined the issue of member State compliance with their constitutional obligations relating to standards, highlighting the fundamental importance of the timely submission of reports containing sufficient information to ensure the proper functioning of the supervisory system.

All the constituents welcomed the discussion on the topic of working time, which was based on the General Survey prepared by the Committee of Experts on the 16 instruments related to this subject. Conclusions were adopted in this regard, in which it was emphasized that the organization of working time has a major impact on the physical and mental health of workers, work-life balance, the contribution of workers to society, safety in the workplace and the competitiveness, productivity and sustainability of enterprises.

The Committee recognized that finding an appropriate balance between the protection of workers and the needs of enterprises in the organization of working time remained an important goal for the realization of social justice.

The Committee was confident that the conclusions of the General Survey would contribute to future tripartite meetings on this subject. The Office was also requested to provide technical support to member States requiring it on issues relating to working time.

With regard to the individual cases considered, which were jointly selected by Worker and Employer members, it should be noted that they dealt with the implementation, in countries in different geographical areas, of relevant and fundamental Conventions relating to freedom of association and collective bargaining, child labour, forced labour, discrimination, minimum wages, tripartite consultations, labour inspection, working time and employment promotion.

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

On behalf of my country, Panama, I would like to express my appreciation for the honour bestowed on me in nominating me to chair this important Committee. As a founding country of this Organization, Panama has had a smooth relationship with this house, as demonstrated by its strong support for the ILO supervisory system, of which this Committee is a key component.

As was also mentioned in the discussion, we hope to contribute to the important measures that the constituents are putting in place to improve the working methods of the Committee. We underscore the importance of finding an appropriate space in which to hear about cases that are showing relevant progress, so that other States can also learn about good practices first hand in the Committee's tripartite discussions.

Panama is committed to social dialogue, which it perceives as essential to a democratic model of labour relations. The dialogue round tables set up in Panama have led to the establishment of a national body which has no intention of replacing the ILO supervisory bodies but works in close coordination with them to settle at the national level disputes that have already been brought to their attention, or are likely to be in the future. Moreover, and this is very important, we have found a way to move ahead on adapting our national law and practice in response to the observations of the supervisory bodies.

I should like to thank Mr Koroma, the Chairperson of the Committee of Experts, who once again attended the sessions of the Conference Committee. The presence of Mr Koroma during the Committee's work and the interaction with its members are an indication of the strong relationship between the two committees based on a spirit of mutual respect, cooperation and responsibility.

I would like to convey special thanks to the President, Vice-Presidents and Secretary-General of the Conference for visiting the Committee. It was a pleasure to be able to welcome them. I would also like to thank the Reporter of our Committee, for carrying out his task so efficiently. Thank you also to the Employer Vice-Chairperson and the Worker Vice-Chairperson and to their teams for the courtesy and cooperation shown to me as Committee Chairperson.

My thanks go also to the representative of the Secretary-General, as well as to Ms Curtis and Mr Guido and the other members of the secretariat for the quality of their work during these two weeks. I also commend the technicians and interpreters on their excellent work during the sessions.

I would like to invite our constituents from the Americas to attend the ILO American Regional Meeting from 2 to 5 October, an appropriate and timely forum in which to continue dealing with issues related to the standards supervisory system.

Lastly, I invite you to approve the report of the Committee on the Application of Standards.

The President
(Original French)

I declare open the discussion of the report of the Committee on the Application of Standards.

Mr Brizuela
Government (Paraguay)
(Original Spanish)

The group of Latin America and Caribbean countries (GRULAC) takes note of the report of the Committee on the Application of Standards submitted to the plenary of the Conference, and thanks the Office, the social partners and the governments for their efforts.

GRULAC has expressed its views on numerous occasions, including during the latest sessions of the Conference and the Governing Body, on the need to review the working methods of the Conference Committee on the Application of Standards and the Committee of Experts on the Application of Conventions and Recommendations. The group observes that, as on previous occasions, the same problems that it has been pointing out for some time resurfaced during the 107th Session of the International Labour Conference. GRULAC took the floor during the opening sitting of the Conference Committee in order to highlight aspects on which there was no consensus that are leading us away from a transparent, predictable, effective and fully tripartite mechanism.

This is not helpful in building trust in the system and strengthening its credibility. Under the circumstances, GRULAC would like to make the following comments on the working methods of both the Conference Committee and the Committee of Experts. We do not support breaking the regular cycles because this would not maintain the legal certainty of existing procedures. We do not understand why we are discussing two different cases for the same country at the same session of the Committee on the Application of Standards, as happened this year. We advocate seeking a better balance in the situations that are examined, based on the level of development of the countries contained in the preliminary and final lists of cases to be examined by the Conference Committee. We propose that greater consideration be given to the particular characteristics of the legal systems in the region. Lastly, GRULAC does not accept inferences made on the basis of foreign legislation or jurisdictions when the countries in its region have not been involved in the development of those provisions.

The final list of cases to be examined by the Committee should be published as early as possible, and always prior to the opening sitting of the Conference. This would enable governments – which, incidentally, are not allowed to have any involvement in drawing up the list – to prepare adequately and provide high-level responses. GRULAC considers that the most serious cases according to the technical criteria in the Committee of Experts' report should be given priority for examination by the Committee. With reference to the drafting of the Committee's conclusions on country cases, the Chairperson of the Committee could also play a role in formulating recommendations that are based as closely as possible on tripartite consensus.

The governments concerned should also be informed sufficiently in advance of the conclusions relating to their respective cases, so that they can transmit to the competent authorities all relevant information for the purposes of internal coordination, which would enable them to provide an adequate response.

The Committee on the Application of Standards should observe better parliamentary practices when adopting conclusions on cases. If it so wishes, the government concerned should be allowed to take the floor before the adoption of the conclusions in the plenary sitting. The government in question would therefore have an opportunity to clarify its views on the conclusions, which is not currently the case. A small change of this kind could significantly improve perceptions of respect for governments.

The General Survey should be discussed in advance, in informal tripartite discussions, to ensure that all constituents are aware of the views of the different groups before the

Committee on the Application of Standards begins its work. Moreover, GRULAC requests that a more active follow-up of the conclusions of the General Survey is undertaken. Once again, we regret that the conclusions of the General Survey were adopted after less than 24 hours of analysis, during a very brief sitting with no substantive discussion, and only a few hours after its publication. An opportunity should be provided to make corrections to individual statements, not only with respect to the discussions on the cases themselves, but also in relation to the discussion of the General Survey. We regret that the Committee has not examined cases of progress, bearing in mind that one of the aims of the supervisory system should also be to share good practices and recognize successes.

In GRULAC's view, these proposals are self-evident, but very important. The group is reiterating these points because it values highly the work of the Committee on the Application of Standards within the ILO standards supervisory system. Moreover, with the centenary approaching, GRULAC is a strong advocate of effective tripartism, which benefits from having the important viewpoints of governments and is in keeping with the quest for consensus, which is at the heart of this Organization.

Lastly, a large majority of the countries in Latin America and the Caribbean would like to thank Mr Núñez Morales for the wisdom, calmness, impartiality and courtesy he has shown in chairing the discussions. Under his leadership, the Committee was able to adopt conclusions in all of the cases under examination.

Ms Farani Azevêdo
Government (Brazil)

Brazil aligns itself with the statement made by Paraguay on behalf of GRULAC and would like to make the following observations in its national capacity.

We would like to express our gratitude to the Chairperson and the Worker and Employer Vice-Chairpersons of the Committee on the Application of Standards. I also thank the Office.

We thank all governments and social partners who have joined us in our call for a comprehensive reform of the supervisory system, both in the Committee on the Application of Standards and elsewhere during this session of the Conference. This system is too important to be left unguarded against political bias and lack of transparency.

We are confident that the ILO constituents can seek consensus towards building an effective, truly tripartite and universal mechanism for standards supervision. Let me stress what I mean by truly tripartite: a system that ensures balanced participation of workers, employers and governments in all stages of decision, for example from the selection of the experts to the working methods of both Committees.

Let me also stress what I mean by universal: a system that does more than monitor those governments who are party to the ILO Conventions. The principle of supervising the laws and practices of only those countries who commit to ILO labour standards is wrong and above all unsustainable. ILO labour standards, especially those established in the fundamental Conventions, are universal and universal is what their supervision should be.

We also thank GRULAC for its courageous engagement with essential procedural issues before the Conference Committee.

We reiterate our concern at the application of paragraph 65 of this year's Committee of Experts' report. This paragraph contains general criteria for breaking reporting cycles and for allowing comments of the Committee of Experts outside those cycles. Brazil is fully aware of this section of the report. Yet we have requested and not received comments from

the Committee on the particular reasons which have been taken into consideration by the experts in the application of paragraph 65. This is another improvement in the system that seems to be essential.

Brazil notes that a clear majority of Conference Committee members have expressed criticism of the working methods of the Committee of Experts in relation to the Brazilian case. There can be no misrepresentation of that. We therefore urge all parties to give full consideration to this important fact.

The examination of the Brazilian case was in breach of the most basic principles of due process. A system allowing for this to happen, with no effective checks and balances, fails the purpose and objectives of the ILO. It also impairs the necessary strong and shared perception by member States and social partners that the system should function in a fair and equitable way, based on the technical merits of the case.

Moreover, we have presented robust technical and legal arguments on the relevance and timeliness of our labour modernization, which is creating jobs, formalizing important sectors of our economy, preserving labour rights and promoting collective bargaining in full compliance with our international obligations and, in particular, with the Right to Organise and Collective Bargaining Convention, 1949 (No. 98).

If information on this case was incomplete, it was not due to a lack of political engagement from the Brazilian Government. It was rather a matter of reality imposing itself. Our reform is still six months' old and facts could not and should not be fabricated.

As to the conclusions on our case, we shall examine in due course the text that was submitted to us yesterday. We had no opportunity to assess those conclusions before entering the Governing Body room for their adoption. And we were not able to speak before the adoption of the conclusions during yesterday's session. This bears witness to the improper manner in which the Committee operates. We need to make progress. If appropriate, we shall provide a response to those conclusions.

Notwithstanding all this, the Brazilian Government is ready to engage in social dialogue with workers and employers to address current and perceived challenges relating to our labour laws. We are already working on that.

In conclusion, Brazil rejects attacks made on its institutions during the proceedings of the Conference Committee and this session of the International Labour Conference. Over the last two years, Brazil has faced a political crisis and an economic recession that predate the current Government. We have implemented important economic and labour reforms, enacted key legislation and promoted positive changes. Democracy in Brazil is alive, civil society is vibrant, political debate is in full force, the rule of law is in place and strong, and the judiciary remains fully independent.

Mr Matsui
Employer (Japan)

On behalf of Japanese employers, the private sector and other citizens of Japan, I will focus on the conclusions relating to Japan regarding the application of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87).

I am very disappointed that some parts of the conclusions have not been fully reflected, a fact repeatedly emphasized by the Government of Japan to the Committee on the Application of Standards last Monday. We believe that Japan is a democratic country, therefore without the support of Japanese citizens a bill cannot be approved. Even though the Committee called upon the Government to develop a time-bound action plan, I strongly

believe that the Japanese workers concerned need to convince Japanese citizens first. Indeed, the responsibility for convincing citizens rests with them and not the Government, as pointed out by the Government member of Brazil in an independent statement.

I do not think the workers have yet succeeded in gaining the support of the majority of Japanese citizens. Accordingly, I would like to submit a reservation regarding the time-bound action plan for the implementation of the recommendations until the Japanese workers concerned have successfully convinced Japanese citizens to support them. The same Japanese case was examined at the current session of the Committee on Freedom of Association and its report will be submitted to the Governing Body tomorrow for approval. This case is neither serious nor urgent, as acknowledged by the Worker Vice-Chairperson, who repeatedly pointed out that there were many other more serious cases which the Workers would have preferred to include in the shortlist. This is a concrete example of the shortcomings of the supervisory mechanism in this house.

Last but not least, we expect workers who have concerns about the Government of Japan as an employer to work together and resolve their issue at home rather than rely on an international forum like this one.

The President
(Original French)

We shall now proceed with the approval of the report of the Committee on the Application of Standards.

If there are no objections, may I take it that the Conference approves the report of the Committee on the Application of Standards, as contained in *Provisional Record* Nos 9A(Rev.) and 9B?

(The report as a whole is approved.)

Allow me to thank the Committee on the Application of Standards. Once again, the Committee has successfully completed its work in a constructive spirit of dialogue. It is quite clear that the work carried out by the Committee is one of the cornerstones of the ILO's mission to promote social justice. I believe that the Committee is capable of dealing with cases that can be both complex and difficult, and it is in the quest for consensual solutions that we have the possibility of making progress with the full support of the tripartite constituents and the secretariat.

(The Conference continues its work in plenary.)