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Thirteenth sitting, 10 June 2023, 10.55 a.m. (cont.)**Treizième séance, 10 juin 2023, 10 h 55 (suite)****Decimotercera sesión, 10 de junio de 2023, 10.55 horas (cont.)**

Chairperson: H.E. Ambassador Hashmi

Président: S. E. l'Ambassadeur Monsieur Hashmi

Presidente: Excmo. Sr. Embajador Hashmi

Discussion of individual cases (cont.)**Discussion des cas individuels (suite)****Discusión de los casos individuales (cont.)****Philippines (ratification: 1953)****Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)****Convention (nº 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)**

Chairperson – We will now proceed to the second case on our agenda, that is the Philippines on Convention No. 87. I wish to inform the Committee members and the delegates that we have more than 17 speakers registered. Therefore, the reduction of time from 5 to 3 minutes will apply to the delegates concerned. I invite the Government representative of the

Philippines, the Undersecretary of the Department of Labour and Employment (DOLE) to take the floor.

Government representative (Mr BITONIO) – Before the Committee is Case No. 3185 on the application and implementation of the Philippines of the Convention. The case involves several reported incidents of alleged acts of harassment, interference, labelling, intimidation, coercion and judicial killings committed against trade unionists, allegedly by reason of, in connection with, or arising from the legitimate exercise of the rights to freedom of association and to organize. The main thrust of the complaint is the alleged inaction, or lack of effective action by the Philippine Government, in investigating these incidents, and in prosecuting and bringing to justice the alleged perpetrators.

These reported incidents took place over a period spanning different political administrations. The Conference had previously decided to send three missions to the Philippines: a high-level mission in 2009, a direct contacts mission in 2016 and a high-level tripartite mission (HLTM) in 2019 which eventually took place in Manila in January 2023.

Each of these missions resulted in reports and recommendations aimed at addressing the concerns that were raised. Certain actions were taken by the Philippine Government on these recommendations, all of which have been duly reported to the ILO supervisory bodies, including to the Committee. In this regard, the Philippine Government expresses its appreciation to the ILO for providing continuing technical assistance and guidance in addressing the concerns that were raised.

It appears, however, that these actions have not fully satisfied the expectations of the Committee. The picture being presented, not only to the Committee, but unfairly to the rest of the world, is that the Philippine Government, through its policies and agents has perpetrated a culture of repression, violence and impunity specifically directed at trade unionists. Allegedly there is a prevailing climate of fear in the country that discourages the effective and meaningful exercise of freedom of association and the right to organize.

This year, the Philippines marks its 75th year of membership, in good standing, with the ILO. The Philippine Government deeply regrets that the unfavourable picture of the country's situation in relation to the implementation of the Convention has led to the inclusion of the Philippines in the agenda of this year's session of the Committee with potential repercussions on the country's standing in the larger international order. Nevertheless, giving full respect to the ILO's supervisory mechanism and affirming the principle of multilateralism which it embodies, the Philippine Government now comes to the Committee with the conviction that open, reasonable and constructive discussion will lead to full appreciation of the facts and of the real situation of freedom of association and the right to organize in the Philippines.

As mentioned earlier, the reported incidents constituting the case before the Committee took place over a period spanning different political administrations. The present political administration of President of Ferdinand Romualdez Marcos Jr, which assumed office on 30 June 2022, is firmly committed to take action on these incidents and to bring justice to all concerned parties. It will continue to build upon and enhance previous actions initiated by the Philippine Government in relation to the ILO's earlier recommendations, as previously reported, including the following: (i) continuous capacity-building for national and regional tripartite monitoring bodies; (ii) continuing implementation of the two joint guidelines relating to the terms of engagement between uniformed personnel and workers exercising their legitimate collective rights; (iii) continuing implementation of the law institutionalizing and strengthening tripartism; (iv) continuing improvement in operationalizing the Inter-Agency Committee created to address extrajudicial killings and forced disappearances, torture and

other grave violations; and (v) effective observance of the Supreme Court's order to stop the alleged wholesale issuance of cross-border search and arrest warrants that led to most of the reported incidents of arrest of trade unionists in the past.

I will now focus on actions and developments that have taken place since June 2022. Upon the start of the administration of President Marcos on 30 June 2022, the Philippine Government promptly expressed its readiness to accept the HLTM authorized during the 2019 Conference. While awaiting the HLTM, the Philippine Government took the following actions: (i) it resumed consultations with labour and employer representatives on developing a tripartite time-bound road map and plan of action consistent with the recommendations of the 2019 Conference; (ii) it initiated the review, with possible integration, of the two guidelines governing the conduct of stakeholders related to the exercise of the workers' rights to organize and to other concerted activities as mentioned earlier; (iii) it conducted capacity-building activities for national and regional tripartite monitoring bodies and agencies with technical assistance from the ILO; (iv) it conducted consultations leading to the development of a Philippine Labour and Employment Plan, which will include protection and promotion of the fundamental principles and rights at work, including freedom of association and the right to organize, as one of the priority outcomes; and (v) it reconstituted the various tripartite bodies, including the National Tripartite Industrial Peace Council and the tripartite wage boards, to ensure genuine sectoral representation. From August 2022 to the present, 42 worker and 37 employer representatives have been appointed by the President of the Philippines to various tripartite bodies, all of whom have been nominated by their respective sectors. The Philippines also conducted dialogues with labour and employer groups on their priority areas of concern, including but not limited to concerns related to the exercise of freedom of association, security at work, training and retraining, among others.

The HLTM took place in the Philippines from 23 to 26 January 2023. The members of the HLTM can confirm that government agencies which were invited to participate were represented by their agency heads and top-level senior officials, indicating the level of importance that the Philippine Government gave to the objectives of the HLTM. The HLTM report was received by the Philippine Government on 30 March 2023. It contained six recommendations for the Philippine Government to take. Within the framework of the Constitution and existing administrative structures, institutions, laws and jurisprudence, the Philippine Government has responded to these recommendations with concrete and specific actions.

On 30 April 2023, President Marcos signed Executive Order No. 23 creating an Inter-Agency Committee to protect and promote the rights of workers to freedom of association and to organize. The order seeks to strengthen coordination among concerned agencies, develop a road map in consultation with the social partners, monitor actions taken and expedite the investigation, prosecution and resolution of cases involving violations of freedom of association and the right to organize. The Inter-Agency Committee is under the office of the President and is chaired by the Executive Secretary with the Secretary of Labour as Vice-Chairperson. It includes other departments of concern, such as the Department of Justice, the Department of Interior and Local Government, the Department of National Defence, the Department of Trade and Industry, the National Security Council and the Philippine National Police. The Civil Service Commission and the Commission on Human Rights may be invited whenever necessary. The Inter-Agency Committee is tasked to consolidate and evaluate reports of concerned agencies and submit to the President a comprehensive report on its findings and recommendations including the development of a road map consistent with the HLTM recommendations. Its member agencies are required to submit an inventory of cases

and incidents, an inventory of community-based programmes, an inventory of cases related to freedom of association involving agency personnel and State agents, measures being undertaken or proposals to strengthen agency programmes toward addressing outstanding issues and promoting freedom of association, and a comprehensive education and capacity-building programme and communication plan to promote common understanding within and among the agencies of the principles, policies, laws and regulations on freedom of association.

The Inter-Agency Committee is now fully functioning. It held its first meeting on 22 May 2023 with the designation of agency focal questions and DOLE as its secretariat. The Inter-Agency Committee targets to have its second meeting this month, at which it hopes to invite and engage the worker and employer sectors for their inputs in moving forward.

The action of the Philippine Government in issuing Executive Order No. 23 fully implements the HLTM's first recommendation, which is to strengthen coordination between various government agencies on matters relating to protection and promotion of freedom of association and the right to organize, and also the HLTM's third recommendation to set up a presidentially driven body that will monitor the status of cases arising from the exercise of freedom of association.

Even more important is that Executive Order No. 23 provides the foundation and enabling mechanism for the Government to carry out three other recommendations of the HLTM, namely, the second recommendation to engage the social partners to make genuine progress on the concerns raised by the Committee of Experts and the Committee, the fifth recommendation to strengthen the role of the national tripartite monitoring councils and to incorporate improvements recommended by the Inter-Agency Committee, and the sixth recommendation to fully implement all previous recommendations.

In relation to the road map there is currently a tripartite technical working group that is drafting the road map. In his ministerial statement delivered in the plenary session of the Conference on 6 June 2023, the Philippines Secretary of Labour and Employment Bienvenido Laguesma, emphasized that the Government, as the duty bearer, is predominately responsible for addressing the concerns raised, but the social partners also have a shared responsibility in helping resolve these concerns, not only in words, but more importantly through their own concrete actions. The challenge now lies in the concrete time-bound actions that each sector is willing to commit and be responsible for as part of the road map.

While the tripartite partners are formulating the road map, the Philippine Government is clear on what it will pursue. In the meeting of the Inter-Agency Committee of 22 May 2023, the latter agreed to pursue the following: (i) to continuously strengthen implementation and to review and amend as necessary the Joint Guidelines on terms of engagement in the event of strikes and other mass actions of workers and their unions; (ii) to emphasize that there is no Government policy of extrajudicial killing, terrorist-tagging or red-tagging; (iii) to effectively operationalize the clearance requirement from DOLE before the Department of Justice prosecutors in file cases arising from trade union related activities, to immediately and effectively operationalize the DOLE-DTI-PEZA Memorandum of Agreement to promote industrial peace in the economic zones; (iv) to set up regional counterparts of the Inter-Agency Committee to conduct paralegal and related trainings and other assistance for trade unionists and workers, especially on the legal remedies, case build-up and evidence gathering; (v) to conduct sharing sessions among civilian and uniformed personnel at national and regional levels to promote common understanding on freedom of association; and (vi) to incorporate the road map with the Labour and Employment Plan 2023-2028, which DOLE aims to announce by July 2023.

The HLTM has one remaining recommendation which establishes a specialized, eminent, independent non-judicial body to review cases referred by the Presidential Commission with a view to receiving and documenting testimony and making proposals for compensation. The Philippine Government urges the Committee and the HLTM to rethink this recommendation on the following grounds. First, it will be superfluous with the creation of the Inter-Agency Committee under Executive Order No. 23. Second, there are existing laws and institutions where compensation claims may be filed and determined. The Republic Act No. 7309, established a board of claims under the Department of Justice. The Republic Act No. 9851 defines and penalizes crimes under humanitarian law and provides rules of reparations for victims. Remedies and claims for compensation based on proven human rights violations are also within the purview of the Commission on Human Rights, which is a body created under the Constitution. Third, the setting up of such an independent body has to take into account existing jurisprudence that interprets the Philippine Constitution. The Committee may not be aware that a similar body, albeit for a different purpose, was established in 2010, also through an executive order, but this was declared unconstitutional by the Supreme Court for being violative of the equal protection clause of the Constitution. And lastly, the concept of an independent body as proposed by the HLTM appears to be lifted from the recommendation of some Philippine trade unions for the establishment of a truth commission. From international experience, truth commissions have been established in countries recovering from widespread and systemic internal conflicts that have severely damaged political and social institutions to the point that these are no longer functioning. The Philippines is currently far from such a situation.

The Philippine Government is following a whole-of-government approach that incorporates the values of social dialogue and democratic consultation in continuously enhancing the enabling environment for the promotion and exercise of the workers' freedom of association and right to organize. The Philippine Government gives its assurance to the Committee that it will exert all possible efforts and use all legal mechanisms within the bounds of its Constitution and the laws as well as within the bounds of international laws to see to it that the issues before the Committee are resolved quickly, reasonably and with justice to all. The Philippine Government holds this not only as an obligation to being a Member of the ILO, but more importantly as an obligation to all Filipinos.

Employer members – The Employer members would like to thank the Government for its very full statement and the information it has provided.

Just by way of context, the Convention is a fundamental Convention; the Philippines ratified it in 1953. This case has also been submitted previously to the Committee on Freedom of Association on a number of occasions. It has been examined in this Committee six times; the last time was in 2019, which was where the HLTM was first established. It has been the subject of 18 observations by the Committee of Experts since 2000, so it is not a new situation. This is a long-standing case with multiple features. It is also a case involving the Convention which, as we all know, the Employers' group has expressed concerns about over the years.

On its face, this case is a case of systemic discrimination by the State against workers' organizations and their members. I say "on its face" advisedly, because on closer examination, it suggests that the case of the Philippines is actually not one story but two. The first is the specifics of the complaints of the workers and unions, and the second is the Government's responses, and the context of those responses. I will take each of those stories, if you will, in turn.

Before I turn to these stories, I would like to speak on the recent development since our last observation in 2019.

Firstly, we take note that the new Government has been in power since June 2022.

Second, the Government accepted and received a HLTM, as recommended by the Committee in 2019.

This mission took place in January this year, due to a delay caused by the COVID-19 pandemic. We have been informed that the HLTM was extremely fruitful and the mission provided six recommendations in its report, namely:

- greater coordination and consistency across the varying arms of the Government to better guard against serious threats to freedom of association;
- engagement with the social partners to make genuine progress on the concerns raised by the Committee of Experts and the Committee to prevent future violations of freedom of association, including through the finalization before the June 2023 Conference of a road map on the way forward to address the identified concerns, with agreed timeframes;
- establishment of a single presidentially mandated body to comprehensively identify and address all outstanding cases of alleged labour-related issues and abductions with the priority emphasis being on criminal investigation and prompt prosecution and accountability;
- establishment of a specialized, eminent, independent non-judicial body to review cases referred by the presidential commission with a view to receiving and documenting testimony and making proposals for compensation;
- strengthening of the role of the National Tripartite Industrial Peace Council-Monitoring Body (NTIPC-MB) and incorporation of improvements recommended by the presidential body in order to identify and ensure rapid and effective protection measures with regard to imminent and/or emerging threats to the life, security or safety of trade unionists;
- full implementation of all previous recommendations.

Since then, we have seen some promising developments in the country. In particular, on 12 May, the Government created a tripartite advisory council between the Department of Trade and Industry and the Philippines Economic Zone Authority to address labour-related issues.

Furthermore, the President has signed an executive order to create an Inter-Agency Committee to examine the violations of freedom of association and to develop a tripartite road map focusing on the four areas identified.

We welcome this progress and the efforts made by the new Government. We also consider that this road map should be regularly reviewed to take into account recommendations from the concerned agencies and inputs from other relevant stakeholders, including the most representative organizations. However, we note that the Inter-Agency Commission does not of itself include worker and employer representation. We consider this to be a deficiency, as social partnership and freedom of association are indicative of the need to have a fully cooperative dialogue between these groups, and the establishment of a commission that is purely government agencies stops short of that ideal. We would urge, in that respect, that full participation be granted to the workers' and employers' organizations of the Philippines in that process.

For many years, the Committee has received complaints of violations of trade union rights and worse, including the alleged killing of trade union leaders, arrests and false criminal charges filed against trade union leaders and physical assaults of striking workers. There are far too many to detail, due to the history, to discuss here today.

Once again, observations concern serious allegations of human rights violations, including:

- the killings and attempted assassination of trade union officials;
- violent suppression of strikes and other collective actions by the police and the armed forces;
- harassment of unionists and prevention of people from joining trade unions in export processing zones.

Let me be clear; the Employers in no way denigrate the seriousness of the issues brought to the attention of the Committee. However, it is important to note that these are not just issues of freedom of association, which is the subject of this case. They also include issues of human rights. By definition, they are also issues of law and order.

Cases such as these cannot go unchallenged, but we have to be careful that we challenge them here in the context of freedom of association. We have no jurisdiction in this Committee in the matters of law and order in particular nor arguably human rights, although there are inevitable overlaps.

Much of the details of this case is unfortunately the same as we have heard in the past. The murders referred to occurred in 2016 and have been discussed before, so we need to examine not just the details but also whether the situation is getting better or worse, and which parts are better or worse. This year, it seems there are just as many issues, but also at the same time, the Government is even further behind in dealing with them. We urge the Government to step up and strengthen its efforts. Despite what we have heard about the progress that they are working on, what we want to see, is progress that we can "see".

We regret to note the new allegations of violence and intimidation against workers and their representatives in two particular incidents. While the investigations into the allegations of acts against union members and officials are serious issues in their own right, so too is the context in which the Government must investigate these allegations. This makes the Philippines' Human Security Act perhaps the heart of the second story. This Act reflects the Government's commitment to preserve the security of its citizens against a long-standing background of political and civil instability, including armed insurrection. It is this background that the employers believe has not been given sufficient weight in the consideration of this case, both now and in the past.

This is important because the Inter-Agency Committee's operational guidelines define extrajudicial killings so as to include cases where the victim was a member of or was affiliated with a labour organization, or was apparently mistaken or identified to be so and the victim was targeted and killed because of the actual or perceived membership.

Not every human rights violation is a breach of labour rights; this is especially true if the person against whom the violation was committed was committing an unlawful or criminal act at the time. It is therefore vital to the consideration of cases that it be made clear that the law was being transgressed and how, and whether that law conforms to international standards. This is not always clear and any lack of clarity can only inhibit a fair consideration of the case. In the context of freedom of association, it is important to distinguish between cases where

union members were specific targets because of their union membership or activities or simply became victims, alongside other citizens, of more generally directed violence. We have a mandate in the first respect but not the second.

Unions have expressed concerns that the Human Security Act can be misused. For its part, the Government has stated that this Act cannot be used against the exercise of trade union rights, and that guidelines exist to ensure that the armed forces and the police may only intervene in trade union activities if expressly requested to do so by the authorities.

In terms of monitoring and investigation, employers welcomed the establishment of the Inter-Agency Committee. The trouble is that, while initially active, it seems to have fallen into disuse. We hope that the Government's assurances have been reactivated and they are realized. We urge the Government to address these issues as soon as possible.

As previously indicated, the Government has engaged with the ILO Manila in a Technical Cooperation Programme. With respect, we uphold and support that. We request the Government to provide an update on the status of this work.

With respect to the Labour Code changes, we note the Government's proposals. They are welcome, but once again, they need to be finally implemented and the employers urge the Government to do just that.

I want to conclude with the observation that the report of the HLTM essentially confirmed the reality of everything we have discussed in the past. It reinforces the need to, as we say in New Zealand, to "get a move on". We accept that the Government is relatively new, but it is now June 2023 and the honeymoon is over.

So, in conclusion, what we want to see from the employers' perspective is the Government of the Philippines doing the following:

- implement all of the recommendations of the HLTM report;
- amend the Labour Code to bring it into full conformity with the Convention, including with respect to the right of all workers and employers without distinction to form and operate organizations of their own choosing;
- ensure that workers are not penalised for exercising lawful rights, provide information on any developments on the outstanding issues before the next meeting of the Committee of Experts, which means providing that information by 1 September this year; and
- ensure that the Inter-Agency Committee is established in such a way that it involves full participation by the social partners.

Worker members – Over the last 15 years, the Philippines have been under regular supervision of the Committee and its failure to comply with the Convention has already been mentioned by my Employer colleague. And indeed, in January this year, a long-delayed HLTM to the Philippines, requested by the Committee in 2019, to place the follow up on reports of extremely serious violations of freedom of association and civil liberties in the country, including threats and harassment, surveillance, arbitrary arrests and detention and extrajudicial killings of union members for their legitimate union activity. The mission met Government, Labour and Employer representatives and the mission made six recommendations, including calling on the Government to finally comply with the previous recommendations of the Committee.

Among the recommendations was the finalization before this Conference of a time-bound road map on the way forward to address the identified concerns. I understand that such a road

map is now being finalized, which is a positive step, but we are concerned that in line with previous practice the Government will not fully implement the recommendations, as was the case with respect to the 2019 conclusions of the Committee. Our concerns of continued violations are well founded. Indeed, not long after the mission concluded, so this year, Alex Dolorosa, a paralegal officer of the BPO Industry Employees Network (BIEN) in Bacolod City was murdered. Mr Dolorosa joins a long list of trade unionists who have been murdered.

I will now briefly touch upon the major issues for the Workers' group, which will be developed in greater detail by my Worker colleagues later on. Since the last discussion on the Philippines in the Committee in 2019, our Philippines trade union colleagues have documented 16 killings of trade unionists, 2 cases of forced disappearances, 68 cases of arrests and detention, 90 cases of forced disaffiliation, State interference with the right to self-organization through threats, harassment and intimidation, 58 cases of red-tagging or terrorist-tagging, 127 cases of intimidation, threats, harassment of union leaders and members, and 19 cases of other anti-union activities. These numbers are shocking and underscore a prevailing culture of anti-unionism in the country. Few cases are investigated and even fewer result in any one being responsible for these crimes. The so-called red-tagging continues. This is when State actors make baseless accusation and stigmatize specifically the unions and union activists as members of so-called communist, terrorist organizations. This accusation is enough to be detained and questioned by the military and police. Red-tagging acts to discourage workers from supporting legitimate unions or to encourage them to withdraw from one out of fear. It also creates a potent weapon by employers to rid their workplaces of trade unions they do not like. Red-tagging is also done by high government officials with disastrous consequences. This cannot continue. Mechanisms put in place to address these serious violations, such as the NTIPC-MB and the Regional Tripartite Monitoring Bodies (RTMBs) have also failed. The NTIPC-MB is to have oversight on the RTMBs' profiling and monitoring work and the Bureau of Labour Relations is tasked with monitoring the freedom of association of trade union rights violation cases, but without independent funding, or without human resource allocations, the lack of full-time sectoral representatives and regional technical staff devoted to monitoring and promotion work and the lack of fully funded programmes on promotion of human rights and trade union rights have hampered the RTMBs' monitoring work. The NTIPC-MB has stopped meeting on a regular basis since 2016. The Inter-Agency Committee on extrajudicial killings, enforced disappearances, torture and other grave violations of the right to life, liberty and security of persons created under Administrative Order No. 35 was supposed to address the grave human rights violations, including labour related killings. However, unions have little understanding of its workings and despite its resources, few cases have progressed or have been resolved, and the 9 resolved cases out of 65 extrajudicial killings were all prior to its establishment. An ILO-commissioned review of the mechanisms found that the characterization of cases was among the major obstacles in the prosecution of cases.

On May Day 2023, Executive Order No. 23 was enacted in an apparent effort to address one of the recommendations of the HLTM to establish a presidentially mandated body to address violations of the Convention. However, it fell short in several fundamental aspects. The Inter-Agency Committee does not include representation from social partners, and they were not consulted in its drafting. Trade unions had a legitimate expectation that they would be consulted, and indeed had also called for such consultation and had submitted proposals well in advance. The Executive Order also fails to connect the Committee's work or output with that of a specialized, eminent, independent, non-judicial body or provide dedicated funding. We fully agree with the Committee of Experts and echo the expectation that the Government takes measures to ensure that all allegations of killings, red-tagging, harassment and other serious forms of violence against trade unionists previously reported and so on are properly

investigated and lead to concrete results so as to establish the facts, including any links between the violence and trade union activities, determine culpability, punish the perpetrators and continue to prevent and combat impunity.

In addition to acts of violence in a climate of impunity, we must highlight that the freedom to organize, protected by the Convention, is also undermined by a variety of insecure employment arrangements which undermine stability and empower employers to easily dismiss workers for their union activity.

Finally, I note that the Committee of Experts has raised a number of legislative issues over the years. While previous governments have introduced legislation, no amendments have been enacted to address these long-standing concerns. Also, in Belgium, we have a saying “that the Government must move on” just like in New Zealand. The Workers’ group expects the Government to take concrete measures to revise the Labour Code to finally bring it into conformity with the Convention.

Employer member, Philippines (Mr SAYO) – Let me just state that in our legislature, we have about 20 per cent of congressmen who represent specific concerns. These are called Party List congressmen. Out of the 20 per cent, there are about 24 who are identified, or sympathetic with, the labour sector. We therefore implore those congressmen to speed up the judicial process as is their ability to do so. In fact, they have a mandate to do so. We believe that tripartism and bipartism at the national, sectoral and enterprise levels is robust. Dialogue mechanisms to engage with social partners exist in practice. Stable industrial relations are operational and, more importantly, the new government has veered away from the policy of the previous administration that was blamed for the occurrence of the essentially drug-related extrajudicial killings, from which some of the complaints on the exercise of freedom of association have been linked. We are here today to express our satisfaction over efforts toward the protection and promotion of freedom of association in our country. The Government of the Philippines, through DOLE, is cognizant of the challenges faced by labour and is actively working towards addressing issues to the best of its ability.

On the part of employers, the Employers’ Confederation of the Philippines (ECOP), has been taking concrete steps since 2018 to institutionalize the establishment of a buffer-type dialogue mechanism, called the Leaders Forum, where the country’s largest business employers’ organizations and labour federations are represented, so that any matter affecting social and industrial relations may be addressed. We reiterate our commitment to the joint statement issued by the Leaders Forum during the visit of the HLTM on the Convention in the Philippines, early this year. This addresses two main issues: respect of workers’ rights to freedom of association and collective bargaining; and to continue the investigation, prosecution and disposition of all true labour related cases affecting freedom of association and collective bargaining without delay.

In the interests of justice, the employers and their affiliated organizations and sectors do not condone any attempt to undermine the exercise of freedom of association and collective bargaining. The Government has taken decisive actions since the official report of the HLTM, was received on 30 March 2023. The tripartite bodies have been established within economic zones, providing a platform for meaningful dialogue and collaboration between the Government, employers and workers. In that commission that was recently established, we however, at least hope that the labour and employer sectors would be invited as observers, at the very least. Furthermore, in this field, the Government has recognized the importance of strengthening investigations by empowering labour organizations through paralegal training as mentioned by the good undersecretary. This capacity-building initiative will undoubtedly

enhance the ability of labour organizations to effectively advocate for the rights and interests of workers. The Government should be given an opportunity to complete the process of consultation with the social partners. Along this line, the National Tripartite Industrial Peace Council (NTIPC) and other tripartite bodies, have been reconstituted towards genuine representation with sectoral members directly nominated by the social partners. This collaborative approach allows all stakeholders to collectively address the observations made by the HLTM.

All these recent actions taken by the Government demonstrate its willingness to work towards creating an environment that enables workers to freely associate and collectively bargain. Such an environment is essential for the protection of workers' rights and the advancement of their interests. We, in the employers' sector, will remain vigilant in ensuring respect among our constituents in the business sector of these fundamental rights of workers based on ILO Conventions, the Philippine Constitution and, more importantly and more recently, our national laws and regulations related to the Labour Code.

In conclusion, I wholeheartedly support the Philippines' efforts to protect and promote freedom of association. The Government's proactive approach exemplified by the creation of tripartite bodies, the strengthening of the investigations and the ongoing consultation process, deserves recognition and your encouragement and active support.

Let us acknowledge the progress made thus far and provide the necessary space and support for the Government and social partners to collaboratively address the recommendations of the HLTM, the formulation of a tripartite roadmap on freedom of association, which is a work in progress admittedly, and the Labour and Employment Programme for the period 2023–28. These are steps in the right direction. Together, we can achieve a brighter future for the workers of the Philippines, built on the principles of freedom, fairness and justice, which are essential to business, viability and sustainability.

Worker member, Philippines (Mr MATULA) – Within the Workers' group of the Philippines, our stand is unified on the issue at hand with that of all Philippine trade unions, including the affiliates of the International Trade Union Confederation (ITUC) in the Philippines: the Federation of Free Workers (FFW), the Kilusang Mayo Uno (KMU), the Sentro ng mga Nagkakaisa at Progresibong Manggagawa (SENTRO), and Trade Union Congress of the Philippines (TUCP). Our country is under examination for compliance with the Convention. The Philippines received a HTML in January 2023. The ILO mission had submitted recommendations and our good undersecretary acknowledged receipt of that on 30 March 2023. We note the action undertaken by the Government to address freedom of association violations. We are willing to engage in the constructive discussion as suggested by the good undersecretary. With all due respect, however, the Government, it seems, is "cherry-picking" among the recent recommendations. The Government has yet to adopt a joint implementation roadmap with social partners, which falls short of compliance with the recommendations. We do not have a joint implementation report before the Committee in this 111th Conference.

We note the recent issuance of Executive Order No. 23, intended to reinforce and protect freedom of association and the right of workers to organize by constituting an Executive Department Inter-Agency Committee to coordinate and expedite investigations and prosecutions of violations related to the Convention. On its face, Executive Order No. 23 would seemingly respond to the HLTM's recommendation to establish a presidentially mandated body to address violations related to the Convention. A closer reading, however, reveals that it falls short in several fundamental aspects.

The Inter-Agency Committee does not include representation from trade unions and even from employers' organizations. Neither workers' nor employers' organizations were consulted in the drafting. It is silent on any intent to relate the Inter-Agency Committee's work with that of the specialized, eminent, independent non-judicial body to be established for reviewing cases that the Inter-Agency Committee refers to that body, for testimonial documentation and potential compensation. We disagree with the inaugural undersecretary that the creation of these bodies are unconstitutional because a number of bodies created by the President in the Philippines have sustained as unconstitutional like the Presidential Anti-Grab Commission and the Philippines Employees Labour Union Commission, among others.

It falls silent or does not specifically provide a mechanism or roadmap for resolving with finality all outstanding 68 documented cases of labour-related extra-judicial killings that have since been submitted to authorities that were included in the report. It does not specifically provide the Inter-Agency Committee and its secretariat with a dedicated operating budget. It is dependent on the budget of DOLE, effectively setting it up for potential failure. Existing compensation scheme under the law that the Government mentioned is severely inadequate, with those being wrongly incarcerated getting only PHP1,000 pesos a month, which is equivalent to US\$19. When those killed can get no more than PHP10,000 pesos, or US\$181, is that the value of life? Now, we look at the realities on the ground: a number of us have experienced our union organizing work being equated with criminal activity, insurgency or terrorism. On the eve of the visit of the HLTM, the Department of Justice threw out a case filed against 17 police officers involved in the killing of labour leader, Mr Manuel Asuncion. The Department of Justice said Asuncion's wife failed to directly identify the killers and the police operation was legitimate. Asuncion was killed in his office at the Workers' Assistance Centre during a police operation in Cavite.

In the same month, the abduction of union organizers Armand Dayoha and Dyan Gumanao in Cebu was captured in video. Dayoha is an organizer for the Alliance of Health Workers (AHW) while Gumanao is a coordinator for the Alliance of Concerned Teachers (ACT). The two survived their harrowing experience and are now given the runaround in their quest to bring the culprits to justice.

Criminalizing union activities in practice is contrary to the Convention. Regarding the 68 reported killings, we disagree with the employers from the Philippines. There is no drug-related case in those reported killings. The killings of trade union organizers, along with approximately 400 cases of trade union rights violations since President Rodrigo Duterte assumed office in 2016 were submitted to the ILO mission.

This pattern of violence continues into the first year of the Marcos administration, with the recent murder of union organizer Alex Dolorosa marking the 69th case. Of the 69 cases since 2016 until today, nobody was prosecuted or penalized by the court.

Despite the Philippine Government's portrayal of a human rights and union-friendly nation which upholds freedom of association and tripartism, the realities we experience contradict this narrative. Abductions, murders and an intimidating police presence during union events, among others, during the first year of the Marcos administration, illustrate a persistent culture of impunity that puts every labour organization at risk. As a result, the persistent violence has reduced union density to about 7 per cent of the workforce and fewer are covered by collective bargaining agreements. The widespread layoffs and termination of regular employment across numerous companies are resulting in a significant reduction in union membership. This phenomenon, which is particularly evident in organizations or

companies like the De Los Santos Medical Centres, Wyeth-Nestle and Duty-Free Philippines, affects hundreds of regular employees because of their union membership.

The public sector unions are not spared. An essential issue in the public sector is the forced disaffiliation of members due to ongoing pressure from their public employers. A significant example being the non-uniformed personnel union affiliated to the Public Services Labor Independent Confederation (PSLINK) at the bargaining unit of the Philippine National Police, which weakens the union and infringes on the rights of our members. In order to demonstrate further the scale of freedom of association violations, let us consider the following examples: the surveillance of a SENTRO leader in Davao from February to May 2023; the public red-tagging of the ACT by the Secretary of the Department of Education. The red-tagging of migrant workers abroad was also reported. Also, the harassment of a female trade union secretary of the FFW by charging her with criminal offence after she won her illegal dismissal case and was reinstated back to work in a garments factory in Clark Ecozones. Most recently, in the middle of a certification campaign against a union created in a multinational company, the red-tagging of a leader of the Associated Labour Unions (ALU). The new Defence Chief said that there was nothing wrong with red-tagging, but being red-tagged marks you for murder, abduction or a serious threat to your life and your family. Nothing wrong indeed!

We reiterate again the urgency for the Philippine Government to consult social partners to: (i) revise Executive Order No. 23, as it is not compliant with the ILO recommendation to include workers' and employers' representatives; (ii) form an independent, non-judicial body to document testimonies, review cases and propose compensation measures for affected parties; (iii) strengthen the National Tripartite Monitoring Council establishing tripartite validation teams that will act on reports of killings of trade unionists and other blatant freedom of association violations with dispatch; and (iv) adopt the Presidential Executive Order outlining joint guidelines on the conduct of state security forces, thereby ensuring the proper observance of trade union rights. These are among the recommendations of the trade unions. Lastly, we are willing to cooperate with the Government and the Employers' group to improve freedom of association and the situation regarding the killings and impunity, as organizing a union is not a crime. We insist that the time for action is now.

Government member, Sweden (Ms BUCHT) – I have the honour to speak on behalf of the European Union and its Member States. The candidate countries – Albania, Bosnia and Herzegovina, and the Republic of North Macedonia, and the European Free Trade Association (EFTA) countries Iceland and Norway, members of the European Economic Area, align themselves with this statement. We actively promote the universal ratification of ILO fundamental Conventions. We call on all countries to protect, promote and respect all human rights, including labour rights. We attach great importance to freedom of association and the right to organise. The Philippines is an important partner, including in support of multilateralism and the international rules base order. Within the framework of the Generalized Scheme of Preferences Plus, and the Framework Agreement on Partnership and Cooperation with the EU, the Philippines committed to ratify and effectively implement international Conventions on human rights, labour rights included. The case discussed today is a long-standing and serious case. At its 29th Session, the Committee noted, with concern, the many allegations of murders of trade unionists and anti-union violence, as well as the lack of investigation in relation to these allegations. The Conference Committee also called on the Government to accept a HLTM mission before the 2020 Conference, and to elaborate, in consultation with the representative workers' and employers' organizations, a report on progress to the Committee of Experts by 29 September. An exchange in September 2021 with the ILO, the Government and the social partners, was held virtually due to the COVID-19

pandemic. One of the recommendations of this exchange was that the Government adopt a time-bound plan of action in consultation with the social partners and with support from the ITUC and the International Organisation of Employers (IOE). This addressed the four areas of concern.

We welcome that the Philippines received the HLTM in January 2023. The mission made a number of recommendations, and while it observed some progress, this remains largely insufficient in view of the very serious nature of the issues. We very much regret that the Government did not make available a joint implementation report by the tripartite partners to the ILO prior to the 2023 Committee in order to show tangible actions towards implementing these recommendations. We wish to underline that tripartite actions are crucial for progress. We nevertheless welcome the joint statement of the Leaders Forum, which could serve as a strong and positive foundation to pursue discussions on the tripartite road map.

Under the new administration, we see an improvement in the human rights area. We hope that this trend will be continued. The dialogue with the EU is open, also on the most sensitive issues. However, areas of concern remain, including the allegation of serious violence and intimidation against trade unionists. Serious violations against workers and their representatives regarding civil liberties and freedom of association where authorities, in some cases, are preventing the lawful activities of trade unions. We are also worried about the pending cases of alleged killings of trade union leaders and members where despite the efforts by the Government, no apparent progress was made. We want to highlight the need for investigations into the killings of trade unionists to shed full light on the facts and circumstances in which such actions occurred. We wish to determine responsibility, punish the perpetrators and prevent the repetition of similar events in order to combat impunity.

We are concerned about the practice of red-tagging of trade union representatives and members, and allegations of links to terrorist organizations by security forces to create a climate of fear leading to workers being impeded from exercising their rights. We welcome the intentions of the Government to combat impunity and secure the application of the Convention. However, we regret that very little policy or legislative action has been taken effectively to address the significant and long-standing concerns of the Committee of Experts and the Committee. We note with concern the lack of progress regarding the adoption of several legislative proposals to bring national legislation into conformity with the commitments and assurances in recent years to do so. The absence of effective action to address areas of concern due to lack of resources and incoordination in different areas such as the effective functioning of monitoring mechanisms and the Administrative Order No. 35, is a particular concern. This, despite the EU-funded ILO technical assistance since 2016, in view of the institutional strengthening of the tripartite partners.

While we welcome the precedent Executive Order to create an Inter-Agency Committee to examine the violation of freedom of association and developing a road map, we regret that the Executive Order falls short of the HLTM recommendation, and that it appears that it was not consulted with the social partners. On the economic zones, we understand that the programmes of the Joint Industrial Peace and Concerned Office and the Alliance for Industrial Peace and Program Office have been put on hold, and we welcome that. We have, however, urged the Government to secure the trade unions' rights by continuing to promote comprehensive training activities on freedom of association and collective bargaining, and revising guidelines on the conduct of stakeholders relative to the exercise of trade union rights. We furthermore stress our comments from previous years to urge the Government to adopt legislative amendments to pursue the revision of the Labour Code without additional delay. We agree with the HLTM report that the serious and pressing concerns could only be

addressed by genuine social dialogue. We encourage the Government to constructively engage social partners in order to finalize a tripartite road map with clear deliverables and timelines, and to incorporate it in the Labour and Employment Plan 2023–28, as indicated by the Government. We hope that the effective implementation of the road map will be reflected in a joint employment report. We encourage the Government to continue to collaborate with the ILO on this issue.

Government member, Brunei Darussalam (Mr HAJI IBRAHIM) – The Association of Southeast Asian Nations (ASEAN) acknowledges the numerous endeavours and initiatives undertaken by the Philippines to adhere to the Convention. We welcome the continuing efforts and concrete measures taken by the Philippine Government since July of last year, to address the issues raised in a proactive and comprehensive manner.

The Government of the Philippines has demonstrated its responsiveness to the concerns raised by various stakeholders, including the labour sector, by taking significant steps towards implementing the recommendations put forth by the HLTM in January 2023. We recognize the notable progress made thus far in compliance with these Recommendations. The issuance of Executive Order No. 23, creating the Inter-Agency Committee to protect freedom of association is a clear indicator of the seriousness of the Government to fulfil its obligations.

We firmly believe in the importance of giving the Government of the Philippines an opportunity to complete the process of consultation in collaboration with the social partners. This inclusive approach ensures that all relevant stakeholders, including the Workers', Employers' and Government representatives, collectively address the observations highlighted by the HLTM. By engaging in a comprehensive and collaborative dialogue, the Government can build trust and work towards mutually beneficial solutions that advance the interests of all stakeholders.

We encourage the Government of the Philippines to continue its efforts in upholding the principles of freedom of association and ensuring that the voices of workers and their representatives are heard and respected. It is a non-negotiable fact that we need to protect trade union rights. It is vital to understand that instances pertaining to acts solely of a criminal nature should be entrusted to appropriate law enforcement agencies and judicial systems. The classification of such cases should be determined through a thorough evaluation of alleged actions, taking into account both the rights of the individuals and the need for societal order and security. This approach guarantees that only matters genuinely linked to the exercise of freedom of association and the right to organize are brought under the scrutiny of the Committee.

ASEAN acknowledges that the Philippines, just like the other ASEAN states, should continue to benefit from the technical assistance of the ILO. In this regard, we express our unwavering support for the continuous technical assistance provided to the Philippines in order to resolve to these long-standing issues.

In conclusion, we reiterate our strong support for the Philippines' commitment to protecting and promoting freedom of association. We believe in the Government's dedication to addressing labour-related challenges and its sincere efforts to comply with the recommendations of the HLTM. We urge all stakeholders to engage in a constructive dialogue, embracing the principles of inclusivity, cooperation and respect, to collectively address the observations made and ensure the effective protection of the rights of the workers.

Employer member, Thailand (Ms SIRIWAN) – The Employers’ Confederation of Thailand is making the statement here on behalf of the ASEAN Confederation of Employers. It associates itself with the position of ECOP in respect of the case of the Philippines in the Committee. This is in line with its thrust to promote stable, harmonious and productive industrial relations, and generation of employment in pursuit of national development across all countries which it represents. It recognized that ECOP’s commitment to social development through tripartism and bipartism in resolving issues and challenges in industrial and labour relations is cognizant of ECOP’s passion in promoting freedom of association and collective bargaining in the Philippines. The underlying principle behind ECOP’s advocacies and services is founded on respect of workers’ rights and protection of welfare. It wishes that the governments, employers and workers in the Philippines will continue working together to address the recommendations of the HLTM.

Miembro trabajador, Guatemala (Sr. LÓPEZ CORTEZ) – Hablo en nombre de los trabajadores de Guatemala y de la Unión Nacional de Trabajadores (UNT) de México.

La violación a las libertades civiles y derechos sindicales en Filipinas es de larga data. Desde 2006, los sindicatos filipinos alegaron asesinatos y amenazas graves, los más recientes sucesos fatales fueron el caso del Sr. Alex Dolorosa y los esposos Marlon y Fe Ornido, en los cuales no se ha avanzado en la investigación, lo que suma un total de 69 asesinatos cometidos contra sindicalistas; eventos lamentables que suceden también en mi país, Guatemala.

Un clima de violencia que da lugar al asesinato, a la desaparición de dirigentes sindicales y actos de agresión en contra de organizaciones de trabajadores constituye un grave obstáculo para el ejercicio de los derechos sindicales; tales actos exigen medidas severas por parte de las autoridades.

El Comité de Libertad Sindical ha solicitado al Gobierno de Filipinas que garantice la realización de investigaciones sobre los asesinatos de sindicalistas; y ha lamentado que «a pesar del continuo control e investigación que lleva a cabo el Gobierno, no parece haberse logrado ningún progreso sustancial para llevar a los autores ante la justicia o para aclarar las circunstancias de estos incidentes».

El clima existente de presión, miedo y violencia física extrema vulnera la capacidad de las personas trabajadoras para ejercer los derechos protegidos por el Convenio. Si bien dicho convenio fue ratificado por Filipinas hace setenta años, ha habido dificultades en el Gobierno para darle cumplimiento.

Es posible registrar la realización de diversas acciones para superar esos graves obstáculos al ejercicio de las libertades sindicales, tales como la implementación de misiones de alto nivel, de contactos directos, más una reunión virtual tripartita de alto nivel. En enero de este año tuvo lugar la visita de una misión tripartita de alto nivel para investigar las alegaciones de los sindicatos e informes del Gobierno derivados de la aplicación del Convenio.

El informe de la misión tripartita expresó su preocupación por la lentitud que se percibe en la aplicación por parte del Gobierno filipino de las recomendaciones efectuadas por la OIT; reiteró las conclusiones y recomendaciones contenidas en informes anteriores de los organismos de control de la aplicación de normas.

Asimismo, el Gobierno de Filipinas informó de la creación de mecanismos nacionales y regionales en lo relativo al cumplimiento del Convenio y del Convenio sobre el derecho de sindicación y de negociación colectiva, 1949 (núm. 98), además de otras acciones; sin embargo, en todos los casos se consta un comportamiento dilatorio y persiste en simular avances de

sostener que existen situaciones de progreso que sólo se encuentran presentes en el discurso oficial.

El asesinato de sindicalistas exige la realización de investigaciones judiciales, independientemente con el fin de esclarecer plenamente en el más breve plazo los hechos y las circunstancias en las que se produjeron dichos asesinatos, determinar las responsabilidades, sancionar a los culpables y prevenir su repetición.

La Comisión debe urgir al Gobierno a efectuar las acciones que sean necesarias y cesar con las prácticas violatorias de la libertad sindical que tienen lugar en Filipinas desde hace años.

Government member, United States of America (Mr GERTSEN) – We thank the Government of the Philippines for providing additional information to the Committee in response to the report of the HLTM which visited the Philippines in January this year.

The Government reports on various measures it has taken to address longstanding concerns expressed by ILO supervisory bodies regarding its implementation of the Convention, and actions it is now taking in response to recommendations in this report. We welcome these measures as initial, partial steps.

We, however, remain concerned about the Government's response to continued alleged violations of workers' civil liberties and right to freedom of association.

To that end, the United States urges the Philippine Government to immediately accept the report of the tripartite mission in full and implement all its recommendations, including establishing a presidentially mandated body to address all cases of alleged labour-related extrajudicial killings and abductions, as well as implementing rapid and effective protection measures to address imminent and/or emerging threats to the life, security, or safety of trade unionists.

The Committee of Experts noted with concern new allegations of violence and intimidation against workers and their representatives and observed with regret that no substantial progress appeared to have been achieved in bringing the perpetrators to justice.

The United States remains focused on the April murder of Alex Dolorosa, a trade union leader and LGBTQI+ activist with BIEN, an organization that helps call centre workers exercise their rights and organize to improve their job conditions. We welcome the Philippine Government's condemnation of his murder and its commitment to thoroughly investigate and to hold the perpetrators accountable.

We note the HLTM's call for any suspicion of criminal acts and/or suspected illegal links to the communist insurgency to be brought before appropriate judicial bodies with assurances of due process and respect for the presumption of innocence.

We reaffirm the importance of the HLTM's recommendation of engagement with the social partners to make genuine progress on the concerns raised by the Committee of Experts and the Committee to prevent future violations of freedom of association. The United States emphasizes that democratic and independent trade unions are essential to healthy, inclusive democracies and thriving economies.

The United States remains committed to engaging with the Government to advance workers' rights in the Philippines.

Employer member, United States of America (Mr CONGIU) – We note that in June 2019, the Committee requested a HLTM to the country, which was completed in early in 2023. This

Mission, along with an intervening virtual exchange, reflects steps that presaged a plan of action to detail – relevant here – how the Philippines can effectively implement the Convention.

In this spirit, we view this case as forward-looking and, by extension, aspirational. It is an opportunity to revisit the essence of the Convention, and the full concept of freedom of association under international law. We note that freedom of association is one of the most fundamental principles of international labour law. Article 2 of the Convention provides that “workers and employers, without distinction whatsoever, shall have the right to establish and, subject only to the rules of the organization concerned, to join organizations of their own choosing without previous authorization”. The language here is critical as the Convention applies in equal parts to “workers” and “employers” – “without distinction” – to associate and, by extension, not associate or disassociate, consistent with their own wishes. We recall that workers and employers, and their informed wishes, are at the very heart of the Convention, and that governments are obliged to create legislation and to foster practices that help workers and employers to make free and informed choices about their working lives.

Governments must not enable or authorize, and this cannot be understated, any conduct that interferes with these rights. That would include, of course, at least some of the examples of the legitimate concerns referenced by the Committee in this case. In this case, we recall that determining the underlying facts and context of alleged events and concerns is of the utmost importance, and express our sincere hope that the Government take steps, along with the ILO and social partners, to conduct all necessary and appropriate inquiries most thoroughly. We should not craft policy, nor prejudge whether actions are consistent with the Convention, until meaningful inquiries have been completed. If obstacles exist or if they arise, the Government, along with the social partners, should nonetheless patiently persist.

We also recall that governments should not take any position or provide any measure of favouritism towards any particular group, and recall that this is also a fundamental concept within international labour law.

Governments are meant, at the most fundamental level, to be unbiased and a facilitative partner to enable workers and employers to make free and informed choices about their working lives. We wish for the Philippine Government, as it moves forward through its plan of action, to keep these maxims well in mind.

Worker member, Norway (Ms MJOBORG) – Trade unions in the Nordic countries, France, Germany, the United Kingdom of Great Britain and Northern Ireland, Italy, the Netherlands, and Spain, and the Confederation of Christian Trade Unions of Belgium (ACV/CSC), deplore the interference of the Philippine police and armed forces at the workplace. We have not seen positive signs that the Philippines’ national security agents have withdrawn from industrial relations.

On 2 June, the police entered the workplace of a container company in Meycauyan, Bulacan, on the day when DOLE Region 3 was conducting the certification of the trade union election. Workers were made to cast their vote under the presence of the military.

Until today, the Philippine’s police and the armed forces in Governor Generoso of Davaos continue to smear and label the trade union, which was started a year ago to provide labour rights education and organize workers in a plantation company. The armed officers call the trade union “a communist and terrorist organization connected to the communist party and the ISIS.” The company has been notorious for wage exploitation, discrimination and unfair dismissals.

These are just two examples of military interference reported in the past months since the HLTM conducted a visit to the Philippines. It is just the tip of the iceberg of the militarization of industrial relations. For a decade, it has been justified under the banner of the National Task Force to End Local Communist Conflicts.

The same national security agencies form the majority in the Inter-Agency Committee under the Presidential Office. The Inter-Agency Committee was announced to lead the protection of freedom of association and the right to organize workers. Trade unions have not been informed about the formation of this Inter-Agency Committee.

We cannot be convinced that the same agencies which have been actively red-tagging, profiling and intimidating trade unionists, alleging infiltrations of the workplace by communism, could assume independence and protect the right to freedom of association. It cannot be an adequate response to implement the recommendations of the HLTM to end the culture of impunity.

Organizing trade unions is not a direct threat to national security. The Government must engage with trade unions and social partners to adopt a joint implementation road map of the HLTM's recommendations.

Worker member, the United States of America (Mr GOTTWALD) – The Worker delegates from Australia, Japan, Korea and the International Transport Workers' Federation (ITF) align themselves with this statement. Once again, this body is discussing the case of the Philippines' non-compliance with the Convention.

We welcome the findings of the January 2023 HLTM, which found that very little was done by the Government to implement the recommendations of the Committee and the Committee of Experts from 2009, 2017 and 2019 regarding the extrajudicial killings of trade unionists and other violations of freedom of association in the country.

Unfortunately, despite the attention from the HLTM, threats, attacks, and even murder of trade union activists continue in the Philippines.

We are saddened and outraged by the cruel and violent murder of Alex Dolorosa, a union organizer and a paralegal with BIEN who worked tirelessly to improve the working conditions in the call centre industry. Unfortunately, his murder only reinforces the reason that the Philippines is repeatedly ranked as one of the world's deadliest countries for trade unionists.

Alex's tragic murder follows years of being surveilled and "red-tagged" by the Government of the Philippines. It has become common in the Philippines for the military and the Government to target unions, union leaders and workers attempting to organize with red-tagging – falsely labelling union activists and organizers as communist insurgents and enemies of the State, resulting in aggressive surveillance, imprisonment, and even murder.

We strongly regret that Government has not sent, before the Committee, a joint implementation report, by tripartite partners to carry out the recommendations of the HLTM.

We urge the Government of Philippines to consult with social partners without further delay to:

- Revise Executive Order No. 23 and include workers' and employers' representatives' perspectives.
- Establish an independent, non-judicial body to document testimonies, review cases, and propose compensation measures for affected parties.

- Adopt a time-bound road map in consultation with social partners to fully realize all the recommendations of the HLTM.

Once again, we are demanding that President Marcos and his administration take immediate action in full consultation with the social partners to end the practice of red-tagging and the broader culture of impunity for cases of threats and violence against trade unionists in the Philippines.

Government member, Islamic Republic of Iran (Mr PAKSERESHT) – My delegation supports the commendable efforts made by the Government of the Philippines to address the recommendations put forth by the HLTM, which they received in January of this year. We must acknowledge the concrete outcomes already achieved by the Philippine Government. True to the spirit of tripartism, extensive consultations were conducted for the realization of a tripartite workable plan that is realistic and achievable.

Recognizing the complexity of the issues at hand, the Philippine Government should be given a fair opportunity to complete the process of consultation with the social partners.

We understand that for cases to be resolved, acknowledging the achievements are of utmost importance. Thus, we recognize the need to support the strengthening of the RTMBs, with the technical assistance from the ILO, as may be necessary.

In conclusion, we acknowledge efforts made by the Philippine Government and understand that time is necessary to complete their plan of action towards resolution of issues related to freedom of association.

Worker member, Indonesia (Ms SILABAN) – I speak on behalf of the Indonesian workers. My statement is supported by Malaysia, Singapore and Cambodia workers, and Education International (EI). We stand in solidarity with workers and the teachers in the Philippines. Teachers should not be labelled as insurgents and subject to violence and discrimination because they are members of trade unions. This is still happening in the Philippines. In March, Vice President Sara Duterte, who also serves as the Secretary of Education, publicly labelled the ACT as a communist terrorist organization due its support for a transport workers' strike. At that time, the ACT was advocating for increased government investment in the construction of 50,000 additional classrooms and the hiring of more teachers. National security agents under the National Task Force to End Local Communists Armed Conflict, target and interfere in schools where teachers are unionized and affiliated with the ACT. The national security agents organize so-called peace and order forums in these schools with the aim to identify the unionised teachers and members of ACT.

In regions where the ACT's regional unions are accredited, the Department of Education uses "postpone and delay" tactics to block the reaching of a collective agreement. In region 11, for instance, the Regional Director of the Department of Education has made it clear that negotiation on a collective agreement could resume if the union shares the full list of its members.

In region 5, where trade unions managed to reach a collective agreement after a two-year delay, union members' pictures were displayed in front of schools and they were falsely associated them with the New People's Army. In the province of Camarines Sur, the police even visited schools and pressured teachers to remove their signatures endorsing the collective agreement.

Teachers in the Philippines cannot freely choose the unions with which they wish to associate to defend their occupational interests. Instead, they are forced by national security

agents to disaffiliate and withdraw from the collective agreement their union has negotiated. This is unacceptable and it must be stopped. We urge the Government to engage with social partners to develop a joint implementation roadmap of the HLTM's report under the oversight of a Presidential commission with trade union participation.

Interprétation de l'arabe: **Membre gouvernemental, Maroc (M. SOUKRATI)** – Nous prenons la parole au nom du gouvernement du Maroc pour ce qui est du cas des Philippines concernant la convention.

Tout d'abord, j'aimerais remercier le gouvernement des Philippines pour les informations et les clarifications fournies. Nous saluons également les efforts visant à faire face aux défis et à répondre aux différentes observations de la commission d'experts, que nous tenons à saluer pour les efforts fournis visant à mettre en œuvre les normes internationales du travail et contrôler la mise en œuvre.

Nous saluons également la feuille de route tripartite visant à mettre en œuvre les conclusions de 2019 de la commission et parvenir à une pleine conformité avec la convention, par le biais de la mission tripartite de haut niveau.

Nous avons pris note des réponses apportées par le gouvernement des Philippines concernant les différentes observations. Nous saluons également toutes les mesures qui ont été prises en tenant compte des recommandations de la commission, dont la feuille de route tripartite visant à promouvoir la liberté syndicale, les libertés civiles et la révision des principes directeurs concernant l'action syndicale.

Nous saluons également fortement le gouvernement des Philippines pour la consultation avec les partenaires sociaux visant à promouvoir le dialogue social tripartite afin de trouver des solutions aux droits fondamentaux au travail d'une façon inclusive pour les travailleurs dans les zones économiques.

Enfin, nous aimerions recommander au gouvernement de poursuivre les efforts visant à trouver les bonnes solutions nationales pour la mise en œuvre des normes internationales du travail et mener à bien la vision nationale concernant la réforme globale dans les plus brefs délais pour inclure les observations de la commission d'experts.

Government member, China (Mr GAO) – China thanks the representative of the Philippines for the information provided. We carefully read the report of the Committee of Experts as well as the updated information submitted by the Philippine Government. The Government of the Philippines is working closely with the ILO to submit information in time, actively promote tripartite dialogue and show a constructive dialogue. China appreciates that effort. We note that the Philippine Government, working towards the promotion and protection of freedom of association, puts importance on the concerns of stakeholders and tries to work for sustainable solutions to labour issues. The Philippine Government is taking effective measures to implement the recommendations of the HLTM which took place in January this year, establish national and regional monitoring mechanisms on the Convention and Convention No. 98, issue the guidelines for the tripartite monitoring bodies, and resolve issues through legislative frameworks. We think this should be valued by the Committee. We think that only through extensive collaboration and dialogue we can help the Philippine Government to better improve its capacity to implement the Convention and promote trust. We encourage the Philippine Government to continue to implement the recommendations of the HLTM and avail itself of the technical assistance of the ILO, and further resolve disputes and solve problems. We hope the stakeholders can reach consensus and make constructive decisions in a pragmatic and cooperative spirit to jointly protect workers' rights.

Government member, Saudi Arabia (Ms ALKHAIBARY) – My delegation has taken note of the Committee's report and we welcome the efforts that have been undertaken by the Philippines in order to strengthen its legislation, bring it into line with International Labour Standards and guarantee labour rights.

We also welcome the actions of the country to enter into dialogue with stakeholders. There's no doubt that all dialogue requires a constructive approach with the country concerned in order to build its capacities. That's why we reaffirm the importance of continuing the efforts of the Philippines in the strengthening of the provisions relating to the Convention and the protection of rights, and in pursuing the dialogue.

Observer, Building and Wood Workers International (BWI) (Mr TOLENTINO) – I speak on behalf of the BWI. This statement is also supported by the IndustriALL Global Union Federation. I would like to state today the tremendous difficulties for workers in the Philippines to exercise their rights to self-organisation and collective bargaining; in particular how labour-only contractualization undermines the right to association and collective bargaining.

The Philippine labour law has an explicit requirement for an employer-employee relationship before workers can organize unions. Section 243 of the Philippine Labour Code limits its coverage to persons employed in commercial, industrial and agricultural enterprises and in religious, charitable, medical or educational institutions, whether operating for profit or not.

In addition, there are several institutional causes of the systemic violations of freedom of association. Apart from trade union repression, one of the biggest barriers to the exercise of freedom of association is the precariousness of work. This prevents the vast majority of workers from accessing their constitutional rights to organize, bargain collectively and strike. Compounding the problem is the fact that there is no official data on the number of contractual workers in the private sector. Estimates would range anywhere from 6.7 million to as many as 20 million contractual workers.

The Philippine labour law explicitly provides that all workers have the right to join unions after working for one day. But if you are a contractual worker or employee, you will not dare to exercise this right for fear of having your contract rescinded or no longer renewed. That is why there are millions of workers who have been working for several years in the same company but are not yet considered as regular employees and therefore not able to join unions. However, the biggest culprit is the Government itself. It is the biggest employer of non-regular workers. As of June 2022, there are 642,000 non-permanent government workers out of 2.5 million.

In 2019, despite the passage of both Houses of Congress of a Security of Tenure Bill that would have addressed contractualization, the former President Duterte vetoed this legislation. This problem on contractualization must stop. We call on the Philippine Government to earnestly address the issue of contractualization and the precarity of work. We urge President Ferdinand Marcos Jr. to certify as urgent the passage of the Security of Tenure Bill that would finally plug the loopholes in the Labour Code that permit these problems.

Observer, Public Services International (PSI) (Mr RUBIANO) – I speak on behalf of PSI and the nine organizations in the Philippines affiliated with us. PSI echoes the very serious concerns raised by the HLTM, the ILO supervisory mechanisms, and others relating to the extrajudicial killings of trade unionists, as well as a failure to bring any cases to justice or to provide any other remedies to victims and their families.

The Government continues to deny that the police and military are engaged in the practice of “red-tagging”, despite the findings of the HLTM and of the National Commission on Human Rights. The latter has found that “red-tagging” has been normalised and continues with impunity. The experience of PSI-affiliated organisations is that this sustained climate of intimidation and fear makes it impossible for workers in general to enjoy the rights afforded under the Convention. Workers are fearful of joining unions and becoming delegates speaking in support of other unions. Employers are emboldened to attack unions, and can easily dissuade workers from joining unions by insinuating that they are linked to communism. It is particularly clear in public services, where workers risk careers if they are “red-tagged”. In addition, as previously noted by the Committee, the Government has made many commitments to adopt and amend industrial laws to improve compliance with labour standards. Yet, the proposed bills have failed to be transposed into law. This is, for instance, the case of the Public Sector Labour Relations Bill, which aims to address labour rights in the delivery of public services and was tabled for a second time, having languished under the previous administration. This bill addresses several omissions impacting on public sector workers under the existing laws, such as the formation of a public sector labour relations board, freedom of association, collective bargaining, dispute resolution and the right to strike. Without these amendments, many Philippine workers continue to be denied their fundamental labour rights.

Therefore, we urge the Government of the Philippines to consult with social partners to revise the Executive Order No. 23 and include the workers’ and employers’ representatives, establish an independent non-judicial body to commend testimonies, review cases and propose compensation measures for affected parties, adopt a time-bound road map in consultation with social partners, fully realise all the recommendations of the HLTM, and make sure that the Public Sector Labour Relations Bill is adopted without further delay.

Chairperson – This was the last speaker on my list. I have been made aware that some Members had requested to inscribe on the list of speakers once their discussion on this specific case had begun. I wish to recall what I have been saying at the beginning of each case, that all Members should inscribe on the list of speakers at least 24 hours in advance, or at the minimum before the commencement of the discussion on the individual cases. I will take this opportunity once again to encourage all Members to inscribe on the list of speakers 24 hours in advance, or at the minimum, before the commencement of the discussion on the individual cases. I count on your understanding and support.

Government representative (Mr BITONIO) – First of all, I thank all the intervenors from the Government, Employers’ and the Workers’ groups for their comments on the updates that were given by the Philippines – not only today, but also on the updates that were submitted to the supervisory bodies of the ILO in the previous months.

There are five points that I would like to talk about in response to the various issues raised. The first is on Executive Order No. 23. The second is the road map. The third is the distinction, or the need to properly categorize, where there is a violation or where a criminal act is related to the exercise of the right to self-organization. The fourth is the strengthening of the monitoring bodies. The fifth is the legislative measures that were put forward by the various speakers. I think that these five areas summarize the various substantial comments of the various intervenors.

If I may go back to Executive Order No. 23, the main concerns that we have heard from the labour sector are that: (i) there was a lack of consultation prior to the issuance of Executive

Order No. 23; and (ii) there is lack of sectoral representation, particularly of the employer and the labour sectors, in the Committee.

With respect to the first observation, let me put on record that right after the HLTM was completed, we had already convened the leaders of the forum as mentioned earlier by the Employers' and Workers' groups from the Philippines to discuss the possible ways to move forward. One of the inputs of the labour sector was a draft presidential directive or seeking to implement the recommendation of the HLTM of a presidentially driven body. We note that the recommendation does not provide for the inclusion of sectoral representatives. The nature of that body is that it is a combination of prosecutorial, enforcement and investigative authorities, which are purely governmental functions. We will be very happy if we can get a model from anywhere in which prosecutorial bodies or investigative authorities had sectoral representation and we will be so guided if there is such a model.

With respect to the lack of consultation, it is not necessarily the case that all consultations have to be done face to face. We, DOLE, met with the Leaders Forum. We were in touch with the Leaders Forum right after the HLTM was concluded, as I have mentioned earlier, and asked for directions to move forward. As I have said earlier, the labour sector – and I must acknowledge this – submitted a draft presidential directive to set up a presidential commission. That draft was taken into account in the drafting of what became Executive Order No. 23. As a matter of fact, the Executive Order, if we compare it to the draft submitted by the labour sector, is much more detailed and contains the specific functions and areas of action that the original draft of the labour sector did not contain.

That is one of the circumstances that has to be taken into account in appreciating the context under which the Executive Order was issued. As I said, we will be open to look for ways to improve the Inter-Agency Committee, especially with the guidance of the international community if there is indeed such a committee anywhere, which is mandated to undertake investigative and prosecutorial activities that includes sectoral representation. In relation to the Inter-Agency Committee, as I have mentioned earlier, it is setting a second meeting with the idea of inviting the sectoral representatives to a dialogue in order to get more inputs regarding, among others, ways to improve prosecution and ways to move forward with the formulation of a time-bound tripartite road map.

With respect to the tripartite road map that the Conference and the Committee have recommended for the Philippines to formulate, we take note of the recommendation of the two sectors, and also the government sector, about the formulation of a joint implementation plan, but first, we will have to have the road map. As I said earlier, there is a technical working group composed of tripartite representatives that is formulating the road map even as we speak. The difficulty that has been confronted by the tripartite working group is the matter of identifying what are the time-bound commitments that each sector might include in the road map. The other challenge would be the scope. On one hand, it would be good to have a very broad scope for the road map, but on the other hand, it may also be equally good to have a focused scope so that the tripartite road map can be better monitored and can be more efficiently implemented. Those are matters that the technical working group will have to thrash out.

Insofar as the NTIPC is concerned, the draft road map will have to be submitted to that Council for approval or for adoption. In this regard, I would like to request the patience of the Committee, particularly in giving the tripartite sectors more time to come up with a really specific and doable road map that is agreeable to everybody. Incidentally, it was actually the labour sector who asked for an extension of time to look at the detailed inputs to the road

map, which we feel is a very reasonable request. Even so, we realize the importance of getting a road map as soon as possible. We feel that there is no need to have another mechanism to monitor the joint implementation of this road map because right now we have the NTIPC that is specifically mandated already to do that.

Now the third item is the distinction between criminal acts that are to be processed through the regular courts and criminal acts that are directly related or arise from the exercise of the right to self-organization and freedom of association. This point has been made clear by several of the interveners. Let it be clear that the Philippine Government does not condone any criminal act one way or the other. All criminal acts cannot be condoned and have to be acted upon immediately at the soonest possible time. The point that we wish to stress, however, is that there must be a clear distinction between criminal acts that involve directly, or that arise out of, the exercise of freedom of association and the right to self-organization and what we call regular, or ordinary crimes. A case in point, as it has been mentioned earlier, is the case of Alex Dolorosa. It has been spread over the media that Alex Dolorosa is a trade union organizer, but that is only a description of what he did when he was still alive. It appears that the current investigation of the police into the killing has nothing to do with trade union organizing. According to police reports, a suspect has been identified and evidence has been gathered pointing to the motive of the killing, something that is not related to trade union organizing but to robbery. While we commiserate and sympathize with the family of Alex Dolorosa, we would also like to state that his case should not be used unless there is clear and convincing evidence that the killing is trade union related. His case should not be used in the Committee or elsewhere as an example that in the Philippines there is impunity against trade union organizers. Indeed, he may have been one when he was alive, but as far as the investigation is proceeding, it would appear that this killing is not union related. We will be happy to provide updates on that as we go along but with the caveat that, again, as reminded by the previous speakers, we ought to be careful not to associate immediately the killings with trade union organizing. The important point is the strengthening of regional tripartite mechanisms which is ongoing, and as I mentioned earlier, there is a good opportunity for the Philippines and for the tripartite partners to be involved in this because, in DOLE, we are actually allocating a programme called the Workers' Organization and Development Program (WODP), which is funded to be used for the purpose of supporting the strengthening of these mechanisms, plus of course the continuing assistance of the ILO.

Lastly, with respect to the legislative measures. We are aware that there are legislative measures that have been filed and refiled in previous congresses and these legislative measures have not progressed. DOLE and the Executive Branch defer to the wisdom of Congress on the adoption of legislative measures, but, having said that, they will always insist that any mandatory legislation ought to conform with international labour standards that the Philippines has ratified. We are aware that one of the proposals pending in Congress with a view to facilitating the growth of unions, is to have an amendment that will allow, or that will authorize that a union can be formed without regard to any minimum membership. That is one of the proposals in Congress. You can evaluate that proposal for yourselves. A union without any minimum membership requirement.

Second, there is also a Bill that proposes to abolish all forms of short-term employment. We are not aware of any country in the world that does not have short-term employment, even in the most advanced economies. Therefore, we ought to be realistic about what to expect with the bills that are being filed. Also, with regard to the limitation on the right to organize, as mentioned earlier, there is no limitation on the provision in the Labour Code that workers, without distinction whatsoever, whether they are working for a non-profit religious charitable

institution or not, are all allowed to organize. That is not an exclusionary provision in the Labour Code, that is an inclusionary provision. Let it be clear that there is no such limitation.

With respect to the public sector, the Philippines has just ratified the Labour Relations (Public Service) Convention, 1978 (No. 151) and we are aware that there have been many suggestions or many proposals to legislate and put into law and practice the principles under that Convention. We do have an existing Executive Order that regulates the right of public sector workers to join associations. We recognize the fact, insofar as economic terms and conditions of employment are concerned, that there is a limitation on the right to negotiate or to bargain, but then again, the legislative framework needs to be amended in order for the rapid expansion of the rights of public sector unions to organize and we will be willing to participate in the debates in Congress in relation to the proposed measures.

Worker members – I thank the Government for the information provided and everyone who have contributed to the discussion today. What remains clear is that there remain serious and systemic violations of the right to freedom of association in the Philippines. We need to draw to the Government's attention that the HLTM is tripartite, and that a mission into any country, by the way, involves extensive tripartite consultations and takes recommendations from social partners, regarding how best to address the concerns raised. Extremely serious violations of freedom of association have been highlighted today. We must recall that labour rights are human rights, and the Committee is within its mandate to supervise violations of these labour-related murders and violence. It is up to a court to decide if there is any relation or not. The Government is clearly responsible. Whether it has directly perpetrated these violations through state security forces, or because it has created an environment of impunity by its failure to prevent violence against trade unions or to investigate and prosecute those ultimately responsible when it occurs. In addition to this, we must also reiterate the serious impacts of the proliferation of insecure forms of employment, which are being used without limitation, despite their clear disabling impact on the exercise of the rights protected by the Convention. To this we add, of course, several aspects of the Labour Code, which have been identified by the Committee of Experts for years as needing reform in order to comply with the Convention, without any action. Indeed, it is this inaction in the face of repeated supervisions, why it is where we are today. As I mentioned in my opening remark, the HLTM has issued six recommendations, which include the incorporation of all previous recommendations from supervisory bodies, including the recommendations of this Committee in 2019. The HLTM report also recommends that a joint implementation report by the tripartite partners should be made available to the ILO prior to the 2023 sitting of the Committee. This has not been done. We fully expect the Government to comply with these recommendations and to do so in full consultation with the social partners. We take note of the proposed road map and urge the Government to finalize this road map, in consultation with social partners and with the support of the ILO, so that it fully addresses the HLTM's recommendations and also sets specific deadlines for its implementation. This is the only way forward.

In closing, we must concur with the conclusion of the HLTM that while some progress may be observed in recent years, it considers that this remains largely insufficient in view of the very serious issues which have been raised to and by the ILO supervisory bodies over an extended period. We urge the Government to waste no more time and to finalize and fully implement the road map on priority areas of action, and in accordance with agreed time frames, and we would urge the Government to accept the technical assistance of the Office in the implementation of legal and institutional reforms necessary to give full effect to the road map on time. This is, in our view, the surest way to avoid the case returning to the Committee.

Employer members – I will make just two points. Regarding the HLTM's recommendation for the establishment of a single presidentially mandated body. Having spoken to members of the mission, I can say that there was no expectation, either express or implied, that that was going to be a Government only body. There was simply a request, or a recommendation, for a presidentially mandated body and to that end, I would echo the views expressed by many in relation to ensuring that there is a tripartite participation in that process because it is that process which will effectively be the oversight of all other aspects of progress.

With that, I am just turning to the basic conclusions. The things we want to see from the Government are, as the workers have said, early and quick progress on all the recommendations from the tripartite mission, amending the Labour Code to bring it into full conformity with the Convention, ensuring that workers are not penalized for exercising their lawful rights to associate and to form organizations, providing the information requested on any developments on the outstanding issues before the next session of the Committee of Experts, and, lastly, to ensure that the Inter-Agency Committee is in fact tripartite in nature so that full and open dialogue could occur on all these issues.

Chairperson – I want to thank the Government of the Philippines, the delegation here, also once again for participating in the work of this Committee and for sharing the information. This now brings to an end the discussion on this individual case. The conclusions will be adopted on Thursday, 15 June, in the morning.

The sitting closed at 1.05 p.m.

La séance est levée à 13 h 05.

Se levantó la sesión a las 13.05 horas.