COMMITTEE ON THE APPLICATION OF STANDARDS AT THE CONFERENCE

RECORD OF PROCEEDINGS

INTERNATIONAL LABOUR CONFERENCE

NINETY-SIXTH SESSION
GENEVA, 2007

COMMITTEE ON THE APPLICATION OF STANDARDS AT THE CONFERENCE

RECORD OF PROCEEDINGS

- GENERAL REPORT
- OBSERVATIONS AND INFORMATION CONCERNING PARTICULAR COUNTRIES
- SPECIAL SITTING TO EXAMINE DEVELOPMENTS CONCERNING THE QUESTION OF THE OBSERVANCE BY THE GOVERNMENT OF MYANMAR OF THE FORCED LABOUR CONVENTION, 1930 (NO. 29)

INTERNATIONAL LABOUR OFFICE
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Foreword

The Conference Committee on the Application of Standards, a standing tripartite body of the International Labour Conference and an essential component of the ILO's supervisory system, examines each year the report published by the Committee of Experts on the Application of Conventions and Recommendations. Following the technical and independent scrutiny of government reports carried out by the Committee of Experts, the Conference Committee provides the opportunity for the representatives of governments, employers and workers to examine jointly the manner in which States fulfil their obligations deriving from Conventions and Recommendations. The Officers of the Committee also prepare a list of observations contained in the report of the Committee of Experts on which it would appear desirable to invite governments to provide information to the Conference Committee, which examines over 20 individual cases every year.

The report of the Conference Committee is submitted for discussion by the Conference in plenary, and is then published in the *Provisional Record*. For the first time this year, with a view to improving the visibility of its work and in response to the wishes expressed by ILO constituents, it has been decided to produce a separate publication in a more attractive format bringing together the usual three parts of the work of the Conference Committee. It is to be hoped that this new format will translate into a wider dissemination of the work of this key body of the international labour standards supervisory system.

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International Labour Conference

Record of Proceedings

Ninety-sixth Session, Geneva, 2007

22

PART ONE

Third item on the agenda: Information and reports on the application of Conventions and Recommendations

Report of the Committee on the Application of Standards

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PART ONE

GENERAL REPORT

A. Introduction

1. In accordance with article 7 of the Standing Orders, the Conference set up a Committee to consider and report on item III on the agenda: "Information and reports on the application of Conventions and Recommendations". The Committee was composed of 253 members (126 Government members, 40 Employer members and 87 Worker members). It also included 11 Government deputy members, 45 Employer deputy members and Worker deputy members. In addition, 29 international non-governmental organizations were represented by observers. [1]

2. The Committee elected its Officers as follows:

Chairperson:	Mr Sérgio Paixão Pardo (Government member, Brazil).
Vice-Chairpersons:	Mr Edward E. Potter (Employer member, United States); and Mr Luc Cortebeeck (Worker member, Belgium).
Reporter:	Mr Jinno Nkhambule (Government member, Swaziland).

3. The Committee held 16 sittings.

4. In accordance with its terms of reference, the Committee considered the following: (i) information supplied under article 19 of the Constitution on the submission to the competent authorities of Conventions and Recommendations adopted by the Conference; (ii) reports supplied under articles 22 and 35 of the Constitution on the application of ratified Conventions; and (iii) reports requested by the Governing Body under article 19 of the Constitution on the Forced Labour Convention, 1930 (No. 29), and the Abolition of Forced Labour Convention, 1957 (No. 105). [2] By decision of the Governing Body and the Conference, the Committee was called on to examine the report of the Ninth Session (October–November 2006) of the Joint ILO/UNESCO Committee of Experts on the Application of the Recommendations concerning Teaching Personnel (CEART). The Committee was also called on by the Governing Body to hold a special sitting concerning the application by Myanmar of the Forced Labour Convention, 1930 (No. 29), in application of the resolution adopted by the Conference in 2000. [3]

[1] For changes in the composition of the Committee, refer to reports of the Selection Committee, *Provisional Records* Nos 3–3H. For the list of international non-governmental organizations, see *Provisional Record* No. 2–1.

[2] Report III to the International Labour Conference (ILC) – Part 1AI: Report of the Committee of Experts on the Application of Conventions and Recommendations; Part 1AII: Information document on ratifications and standards-related activities; Part 1B: Eradication of forced labour.

[3] ILC, 88th Session (2000), *Provisional Record* Nos 6-1 to 5.

Work of the Committee

5. In accordance with its usual practice, the Committee began its work with a discussion on general aspects of the application of Conventions and Recommendations and the discharge by member States of standards-related obligations under the ILO Constitution. In this part of the general discussion, reference was made to Part One of the report of the Committee of Experts on the Application of Conventions and Recommendations and to the Information document on ratifications and standards-related activities. During the first part of the general discussion, the Committee also considered its working methods with reference being made to a document submitted to the Committee for this purpose. [4] A summary of this part of the general discussion is found under relevant headings in sections A and B of Part One of this report.

6. The second part of the general discussion dealt with the General Survey on the eradication of forced labour carried out by the Committee of Experts. It is summarized in section C of Part One of this report. The final part of the general discussion considered the report on Teaching Personnel of the Joint ILO/UNESCO Committee of Experts. This discussion is set out in section D of Part One of this report.

7. Following the general discussion, the Committee considered various cases concerning compliance with obligations to submit Conventions and Recommendations to the competent national authorities and to supply reports on the application of ratified Conventions. Details on these cases are contained in section E of Part One of this report.

8. The Committee held a special sitting to consider the application of the Forced Labour Convention, 1930 (No. 29), by Myanmar. A summary of the information submitted by the Government, the discussion and conclusion is contained in Part Three of this report.

9. During its second week, the Committee considered 25 individual cases relating to the application of various Conventions. Out of these cases, two Government delegations did not appear before the Committee. The examination of the individual cases was based principally on the observations contained in the Committee of Experts' report and the oral and written explanations provided by the governments concerned. As usual, the Committee also referred to its discussions in previous years, comments received from employers' and workers' organizations and, where appropriate, reports of other supervisory bodies of the ILO and other international organizations. Time restrictions once again required the Committee to select a limited number of individual cases among the Committee of Experts' observations. With reference to its examination of these cases, the Committee reiterates the importance it places on the role of the tripartite dialogue in its work and trusts that the governments of all those countries selected will make every effort to take the measures necessary to fulfil the obligations they have undertaken by ratifying Conventions. A summary of the information submitted by Governments, the discussions, and conclusions of the examination of individual cases are contained in Part Two of this report.

10. With regard to the adoption of the list of individual cases to be discussed by the Committee in the second week, the Chairperson of the Committee announced that a final version of the preliminary list of possible cases, which had been sent on 15 May 2007 to all member States, was now available. [5] As in previous years, the Committee intended to examine the cases of 25 member States, in addition to the Special Sitting concerning Myanmar

[4] Work of the Committee on the Application of Standards, ILC, 96th Session, C. App./D.1.

[5] ILC, 95th Session, Committee on the Application of Standards, C.App./D.4/Add.1.

(Convention No. 29). In addition, the Chairperson indicated that the representative of the Secretary-General wished to provide some information in respect of Colombia, which had been in the preliminary list of cases that could have been selected for discussion.

11. The representative of the Secretary-General read out to the Committee the text of the following letter received by the Director-General of the ILO from the Minister of Social Protection of Colombia, Mr Diego Palacio Betancourt, on 1 June 2007:

> Mr Juan Somavia
> Director-General of the International Labour Organization
> Geneva
>
> Your Excellency,
>
> In the context of the 96th International Labour Conference, the Government of Colombia reaffirms its commitment to the Tripartite Agreement for the Right of Association and Democracy, signed by the Government and the representatives of Employers and Workers in Geneva on 1 June 2006, and expresses its willingness to strengthen the implementation of the Agreement.
>
> Indeed, since the signing of the Tripartite Agreement action has been taken for its implementation and it is today possible to report progress. Nevertheless, much remains to be done.
>
> The Government accordingly, with a view to accelerating and consolidating compliance with the Agreement, wishes to make available additional resources, both human and financial, with a view to:
>
> (a) strengthening the fight against impunity;
>
> (b) strengthening the protection for trade unionists;
>
> (c) proceeding with consultations with the Office of the Prosecutor-General and the Higher Council of the Judiciary to speed up the investigation and prosecution of pending cases.
>
> The Colombian Government will accordingly invite the workers and employers, with a view to completing the process of reactivating and setting in motion the mechanism for the examination and possible resolution of cases and issues, which would otherwise be submitted to the supervisory bodies of the International Labour Organization. The Government of Colombia further expresses its willingness to proceed with all action within its means to achieve this objective. The Colombian Government will also continue to promote all tripartite dialogue institutions with a view to strengthening social dialogue in the country.
>
> I wish to reiterate the recognition and gratitude of the Colombian Government for the invaluable help received from you and your team of collaborators and to acknowledge the efforts of the various social partners to achieve progress on the agenda contained in the Tripartite Agreement.
>
> Yours sincerely,
>
> *(Signed)* Diego Palacio Betancourt,
> Minister of Social Protection.

The representative of the Secretary-General then read out the text of the reply by the Director General, on behalf of the Director-General, also dated 1 June 2007:

> The Director-General wishes to acknowledge receipt of your letter and welcomes reaffirmation by the Government of Colombia of its engagement to implement the Tripartite Agreement for the Right of Association and Democracy.
>
> He appreciates in particular the willingness to make available additional resources, both human and financial to:

(a) strengthen the fight against impunity;

(b) strengthen the protection for trade unionists;

(c) proceed with consultations with the Office of the Prosecutor-General and the Higher Council of the Judiciary to speed up the investigation and prosecution of pending cases.

In addition, he notes the commitment made by the Government to invite workers and employers to finalize the process of reactivating the mechanism for the examination and possible resolution of cases and issues that otherwise would be submitted to the ILO supervisory bodies. This is the very essence of the Tripartite Agreement.

The Office is willing and ready to provide all possible support for the effective implementation of the measures mentioned above. In this regard, the technical services of the Standards Department and the Social Dialogue Department at headquarters, as well as specialists in the field, will be made available regularly to the ILO Office in Colombia for this purpose. The Director-General proposes to field a high-level mission from the International Labour Office appointed by him to identify the further needs to ensure effective implementation of the Tripartite Agreement and the technical cooperation programme and to report back to the ILO Governing Body in a manner to be decided by its Officers.

He is confident that the commitment that you have expressed, as well as the participation of the social partners of Colombia, will significantly contribute to building trust among all parties and reinvigorating the determination to pursue implementation of the Tripartite Agreement and to honour the spirit in which it was signed a year ago.

(Signed) Ms Cleopatra Doumbia-Henry,
For and on behalf of the Director-General
of the International Labour Office.

12. The Employer members agreed with the methods of work of the Committee. However, they suggested that there be an ongoing discussion of the methods of work between this Conference and the next, that criteria be developed for cases added after the preliminary list was published and that serious consideration be given to the idea of revising the Standing Orders, or as an exception from the Standing Orders, to allow a body such as a standing committee of the Conference officially to begin preparatory work before the ILC started its work.

13. The Worker members said that they had already in the past expressed certain reservations concerning the procedure for the selection of individual cases favoured by the Employer members. Document D.1 already contained the criteria to be taken into consideration for the establishment of the list of individual cases. The Worker members emphasized that they had great difficulty in accepting any ad hoc treatment of serious cases, which would involve the need to make a distinction between serious cases and the so-called "normal" cases.

14. The Worker members were pleased that it had been possible to adopt a list of cases for individual examination by the Committee. However, their pleasure was marred by that fact that the case of Colombia did not feature in the list. They could not understand, and would never understand, how this was possible. If ever there was a case that met the criteria for inclusion in the list, it was the case of Colombia. The reasons for their wanting to discuss the case of Colombia were: the number of trade unionists murdered during the past year, which totalled 72; the recent revelations concerning the links between certain members of the Government and the military, or even the paramilitary; and the financial support given to paramilitary groups by certain multinational companies. The latter was related to the country's internal political climate and, more precisely, what the Colombians themselves called "parapolítica", that is to say, the infiltration of certain state bodies by paramilitary groups. These paramilitary groups were responsible for hundreds, and indeed thousands, of deaths, including the 2,515 trade unionists murdered in the country over the previous 21 years. During the past months, revelations regarding this phenomenon had concerned the

political classes at all levels, right up to the highest level of the State. Recently, the International Trade Union Confederation (ITUC) had presented to the Committee on Freedom of Association what it considered to be irrefutable proof of complicity between the executives of the Administrative Department of Security (DAS) and paramilitary groups. In particular, this complicity took the form of paramilitary groups being provided with lists of trade union members, of whom several who had subsequently been murdered. It was therefore no surprise that it had been stated in the Committee on Freedom of Association that trade unionists in Colombia were military targets. Several legal proceedings that had been brought before courts in Colombia and the United States highlighted the complicity that existed between certain companies, Colombian or multinational, and paramilitary groups, in particular the protection by the paramilitary groups of the companies' industrial and commercial operations in return for payment, as well as the murder of trade unionists and the dismantling of trade union organizations. Such practices concerned companies in sectors as diverse as agro-industry and mining.

15. The previous year, before the same Committee, the Employer members had requested a standing ovation in honour of the Tripartite Agreement that had just been signed by the social partners and the Government of Colombia, the aim of which was to ensure that Colombia did not feature in the list of cases to be examined. However, this was not the first time that Colombia had been withdrawn from the list in the face of opposition from the Employer members and diplomatic manoeuvres by the Colombian Government. Despite their doubts and apprehensions, the Worker members had stood up and joined in the applause. Nevertheless, the 72 trade union leaders and activists murdered in Colombia in 2006, as well as the ten or so that had been murdered already in 2007, were proof that the doubts of the Worker members were well-founded and that their applause had been premature, to say the least.

16. In view of the anti-trade union violence that continued to reign in Colombia, the total impunity enjoyed by the perpetrators of murders of Colombian trade unionists, and the dismantling of social dialogue, collective bargaining, and the exercise of the right to organize, not to mention the right to strike, the Worker members raised the following question: whose interests were being protected by the refusal to discuss, in a calm and reasonable manner, this extremely serious situation? The Worker members indicated that the ILO permanent representation in Colombia, which had the task of contributing to the implementation of the Tripartite Agreement, was not functioning, at least not properly. Of the 16 priorities for the implementation of the agreement, which had been established by tripartite agreement, with the International Labour Office, in Bogota on 18 October 2006, seven had yet to be addressed, particularly those relating to standards. The other priorities essentially consisted of meetings between various consultation and social dialogue bodies, or meetings with the legislative and judicial authorities, in which the ILO had not participated actively. One of the main reasons for the lack of participation was the insufficient resources of the ILO permanent representation in Colombia. The ILO Governing Body should address this issue on an urgent basis.

17. The Worker members had considered the new methods of work of the Committee. In their opinion, issuing a list of potential individual cases prior to the Conference would allow certain governments to prepare counter-strategies or even to engage in collusion. Excluding Colombia from the list of individual cases ran the risk of undermining the credibility of the supervisory system itself throughout the world. Social dialogue was also likely to suffer. The Worker members took note of the correspondence exchanged between the Colombian Government and the ILO. They indicated, however, that they could not accept, for social, trade union or moral reasons, the absence of Colombia from the list of cases to be examined, but they were agreeing to the list that had been established so as not to compromise the spirit and working of the Committee. They hoped that the ILO would make every effort to ensure that the Tripartite Agreement was implemented effectively for the

benefit of Colombian workers, so that the following year the Committee would be able to examine the results of the high-level mission.

18. The Worker members said that they would also have liked to discuss other cases, such as Costa Rica for Convention No. 98. The case had been discussed the previous year but no progress had been made since then, despite the promises made by the Government. The Committee should therefore discuss the case after the Committee of Experts had examined the mission report. The case of Japan for Convention No. 29 should also have been discussed. They hoped that the Government of Japan would finally recognize the crimes committed against "comfort women" and provide the victims with compensation. Other cases were also of concern: those of Myanmar for Convention No. 87, Bangladesh for Convention No. 98, Pakistan for Convention No. 87, Egypt for Convention No. 87 and Chad for Convention No. 87.

19. The Employer members recalled that, as time constraints dictated that only 25 cases could be examined by the Committee on an individual basis, it would not be possible to deal with all the cases that might be selected. Regarding the case of Colombia, the Employer members had exceptionally not objected to that the Worker members could express their views on the case during the discussion of the work of the Committee in view of the serious issues involved. In relation to the fact that the case had not been included in the proposed list of individual cases to be examined by the Committee, the Employer members said that it was necessary to look at the most effective methods of achieving progress in a given country. For over 20 years, the Committee had discussed the case of Colombia. There had been little progress until two years previously, when a high-level tripartite visit had taken place and the Tripartite Agreement for the Right of Association and Democracy had been signed. The Employer members agreed with the Worker members that the situation in the country was very serious, but pointed out that the most sustainable progress to date had taken place during the previous two years when there had been no substantive discussion of the case by the Committee.

20. The Employer members did not rule out the possibility of the case of Colombia being chosen for individual consideration in the future and acknowledged that murder and impunity continued. However, there had been at least eight positive developments in the country. These included prosecutions and resources that were being devoted to dealing with the problem, and thus there was momentum in the correct direction, as evidenced by the letter from the Colombian Minister of Social Protection to the Director-General of the ILO. Furthermore, monthly tripartite meetings now took place with the country's President. Those results were a consequence of taking a different approach.

21. The selection of individual cases was a subjective process, and there were certain cases that the Employers would have liked to have seen on the list of cases for individual consideration by the Committee that had not been included. However, it was important to choose cases on which there could be meaningful discussion by the Committee leading to actual progress in practice.

22. Following the adoption of the list of individual cases to be discussed by the Committee, the Employer and Worker spokespersons conducted an informal briefing for Government representatives.

Working methods of the Committee

23. Following a request by the Worker members, the Chairperson announced that the discussion and adoption of the list of cases would be separated from the discussion on working methods and the general discussion. The Chairperson also announced, in accordance with Part V(E) of document D.1, the time limits for speeches made before the

Committee. These time limits were established in consultation with the Vice-Chairpersons and it was the Chairperson's intention to strictly enforce them in the interest of the work of the Committee. Finally, the Chairperson called on the members of the Committee to make every effort so that sessions started on time and the working schedule was respected.

24. The Employer members did not believe that the list of cases needed to be adopted for the document on working methods to be discussed. For the Employer members, a key consideration on working methods related to the Preliminary List to which new cases could be added at a later date. The Employer members suggested that during the coming year, criteria be drawn up for new cases in order to avoid all considerations of arbitrary decisions.

25. The Employer members noted that the updated methods of work should be looked at as a package and they highlighted two aspects which were inextricably linked: first governments had been provided with a preliminary list of cases two weeks prior to the ILC. Once the list had been established, governments were given a deadline to register and the Office would then set the schedule for the discussion of those governments that had not registered. They recalled that in 2006 there had been a precedent-setting tripartite agreement in a case prior to the list of cases being adopted. The Employer members believed that such agreements and processes for moving forward were more constructive in terms of facilitating implementation in law and practice of ratified Conventions, especially in difficult cases. The Employer members hoped that as a result of the 2007 preliminary list, governments on the list had sought tripartite solutions instead of a discussion before the Committee.

26. They recalled that in the past two years, in the General Discussion, the Conference Plenary and in the November 2006 consultation with the Committee of Experts, the Employers' group had focused its remarks on process improvements for both Committees and trusted that the 2007 updating of methods would be a positive step. For some years the Employer members had called for the diversification of cases, recalling that in the past ten years some 50 per cent of cases had addressed freedom of association. This was understandable from the Worker members' point of view. What was less understandable was the repeated discussion of the same case year after year. In this year's report, there were 103 observations on Convention No. 87 and 99 observations on Convention No. 98. There were a similar number of observations for the six other core Conventions. The Committee did not discuss as many forced labour cases as in the past, despite the continued spread of the practice to a global level. Discrimination and child labour cases were also rarely discussed, while discussion of occupational safety and health and other technical cases was an exception. The result was that the Committee never discussed most of the Experts' observations, although they represented an ongoing failure to implement freely ratified Conventions. The Employer members found that in cases of continued failure by governments to apply ratified Conventions, instead of discussing the case year after year in the Committee, there was a need to adopt different strategies and other informal processes that they had mentioned earlier as well as formal processes, such as under articles 24, 26 and 33 of the ILO Constitution.

27. One way to achieve greater diversification in the cases examined was to return to the system that existed during the Cold War, under which the Committee alternated between years in which half of the cases concerned freedom of association and the following year in which the list of cases was much lighter on freedom of association, thereby permitting consideration of cases involving other Conventions. Returning to such a system would broaden the subject matter of the cases examined to include important technical standards, such as occupational safety and health, as well as cases of progress. Such a system would undoubtedly expand and provide greater balance in the list of countries appearing before the Committee. Other means to facilitate diversification included setting an absolute maximum number of freedom of association cases and drawing up a schedule to ensure that

all categories of Conventions were discussed every four years, fixing the distribution of cases among the regions, and no longer discussing cases for a given period in circumstances where countries failed to show progress in the implementation of international labour standards in law and practice.

28. The Worker members pointed out, with regard to the working methods of the Committee, that the criteria retained for the selection of individual cases were the same as had been used up to now, such as the nature of the observations by the Committee of Experts, the existence of footnotes, the quality and clarity of the replies provided by governments, the seriousness or persistence of the violations, the urgency of the situations concerned, and the existence of observations by employers' or workers' organizations. These were important criteria, which occasionally called for certain cases to be re-examined. Moreover, the preliminary list of possible cases to be examined clearly constituted a basis produced through extensive prior consultations; it was, however, for the Conference Committee to adopt a final list. In this regard, the discussions in the Workers' group had led to the recognition of certain advantages of these working methods on the one hand, and certain disadvantages on the other. This demonstrated that it was necessary to conduct an assessment of the system of the preliminary list for the next session of the Conference. The Worker members strongly hoped that an in-depth discussion in this Committee would lead to encouraging results in a spirit of collaboration and dialogue.

29. The Government member of Cuba, speaking on behalf of the Non-Aligned Movement (NAM), welcomed the constructive attitude of both Employer and Worker members on improving the working methods of the Committee. The acceptance of the proposal to establish a tripartite working group in order to improve the Committee's work was a step in the right direction that had led to major agreements: the expected publication of a list of countries to appear before the Committee; the consideration in the final list of an acceptable geographical balance between developed and developing countries, as well as between fundamental and technical Conventions; and the drawing up of conclusions which objectively reflected the result of the discussions of individual cases. The tripartite working group had also agreed to the setting up of a new scenario in which the Employer and Worker members would inform governments of the way in which the selection criteria for drawing up the final list were arrived at. These agreements should contribute to more transparent, democratic and participative working methods of the Committee, with which the Committee could bring about a state of trust between members and give full expression to its mandate.

30. Despite this progress, NAM was not yet satisfied with the results obtained. The objective was to ensure that the agreements adopted were given effect in good faith and that progress continued to be made in the development and implementation of objective and transparent criteria in drawing up the list of individual cases for examination by the Committee. It was also important that the criteria established for drawing up the final list be applied without selectivity or double standards and between developed and developing countries, fundamental and technical Conventions, in order to ensure that the conclusions stemming from the discussions contributed in a constructive way to facilitating the most appropriate solutions to problems with a view to the effective application of ratified Conventions. Finally, NAM was convinced that the constructive dialogue had contributed to strengthening tripartism in the Committee and supported the continuation of the work of the tripartite working group in enhancing the work of the Committee.

31. The Government member of the United States, speaking on behalf of the Government members of the Industrialized Market Economy Countries (IMEC), expressed appreciation for the efforts of the Tripartite Working Group on the Working Methods of the Conference Committee to facilitate both productive discussions and the effective use of the limited time available to the Committee. The changes in the Committee's provisional schedule that

allowed the entire second week to be devoted to the examination of individual cases were particularly welcomed. She expressed the hope that evening sittings could be kept to the absolute minimum, if not avoided altogether, and encouraged all Committee members to respect the designated limits for interventions and to ensure that meetings started promptly. She welcomed the early distribution of a preliminary list of cases, as well as the addition of an information session for governments. The process for selecting cases was becoming more efficient and transparent. These developments were expected to help improve the quality and impact of the following week's discussions. IMEC firmly supported the inclusion, every year, of at least one case of progress. As noted by the Committee of Experts in its report, such a discussion permitted ILO member States to learn from an instructive case of good practice. Next year, hopefully circumstances would allow the Committee to highlight an exemplary case of progress from a developing country. She expressed her appreciation for the efforts made in recent years to adopt conclusions accurately reflecting the Committee's discussion of individual cases, adding that conclusions should be as succinct as possible and adopted within a reasonable time after the discussion.

32. The Government member of Egypt indicated that it was an honour for her Government to have participated in the Tripartite Working Group on the Working Methods of the Conference Committee, whose deliberations had led to the decision to produce a preliminary list of individual cases to afford countries adequate time for preparations. She stated that core and technical Conventions should both be duly reflected in the cases selected. Additionally, she maintained that taking into account the geographical distribution of cases was illogical, as certain types of violations figured more prominently in certain regions than in others; nevertheless, she affirmed that the geographical distribution of cases must be an equitable one.

33. The Worker member of France emphasized that the role of this Committee was to ensure that the supervisory system of the ILO, widely recognized as a proven model in the field of human rights, was not weakened. He emphasized that the selection criteria for establishing the list of individual cases would be irrelevant unless they were scrupulously respected. Indeed, the selection criteria encouraged governments to take action in order not to fall within their scope of application. Any weakening of the constant monitoring, such as the lengthening of the reporting cycle as suggested by the Employer members, would have the opposite effect. Furthermore, freedom of association and collective bargaining were the basis of the standards system, which allowed for the protection of employment and working conditions of workers.

34. The Government member of the Bolivarian Republic of Venezuela expressed his full support for the statement by the countries of the NAM and stated that there was an urgent need to improve the transparency of the Committee's working methods. The time had come to put an end to the politicization of its work and the double standards used in the selection of individual cases. Some progress had been made in this respect, but the reality was that these discriminations still continued. The speaker drew attention to the pernicious effect that the situation could have for the credibility of the ILO and even for its very existence. The discussions had to be deepened regarding the way in which transparency could be achieved in the core of the Committee, a better balance in the selection of countries, more inclusiveness for governments selected, more information and participation, genuine and constructive dialogue which involved all actors concerned, as well as follow-up and conclusions that reflected this dialogue.

35. The Government member of Kenya noted with appreciation the efforts of the Committee on the Application of Standards to improve its working methods through a tripartite working group. He believed that the incorporation of the proposals and recommendations made by members of the Committee would enhance social dialogue and increase the Committee's

responsiveness to Members' concerns. He welcomed the proposed modifications to the organization of work of the Committee on the Application of Standards, and the proposed guidelines aimed at improving the time management of that Committee. The Government member of Cuba welcomed the fact that the Committee of Experts was continuing to analyse issues relating to its methods of work and that in so doing it endorsed the principles of independence, objectivity and impartiality.

36. The Government member of Bahrain, speaking on behalf of the member States of the Gulf Cooperation Council (Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, United Arab Emirates and Yemen), welcomed the review of the Conference Committee's working methods. He said that there should be clear and specific criteria for the selection of individual cases so as to enable governments to prepare their replies or provide the Committee with the information needed for the withdrawal of the case from the list of individual cases. This would help the Committee better carry out its work.

37. The Government member of Norway, also speaking on behalf of the Governments of Denmark, Finland, Iceland and Sweden, fully concurred with the statement made by the group of Industrialized Market Economy Countries (IMEC). She noted the progress made in the working methods of the Conference Committee in 2006: its conclusions now more systematically took into account technical assistance, as mentioned in 14 cases in June 2006.

38. The Government member of Brazil welcomed the secretariat's initiative in bringing together a tripartite working group to discuss the methods of work of the Committee. She said that the presentation of a preliminary list, containing countries invited to describe the measures taken in compliance with ratified Conventions, would allow governments to make appropriate preparations for the case under discussion, would improve the debate in the Conference Committee and would contribute to the transparency that had been claimed by governments in recent years. She added that it was important for conclusions to be clear, objective and concise.

39. In the view of the Worker member of Uruguay, the list of countries, which repeatedly failed to comply with their obligations, needed to be based on objective criteria. Such criteria already existed and he referred in particular to the relationship between the existence of public freedoms in a specific country and respect for workers' rights. This criterion needed to be taken seriously into account in the formulation of the individual list of cases to be examined by this Committee.

B. General questions relating to international labour standards

General aspects of the supervisory procedure

40. First of all, the representative of the Secretary-General provided information on the state of international labour standards and the overall responsibility of this Committee for considering the extent to which such standards were implemented. She pointed out that the Standing Orders of the ILC did not specify how the Committee was to perform its work and had thus given it a dynamic mandate with considerable discretion to adapt its action to the changing needs of the international environment. The Committee could draw on multiple sources: practical, doctrinal, economic, legal, a broad policy viewpoint, etc., in its reflection on measures States have taken or are taking. So, it was for this Committee itself to decide how to best achieve the Organization's objectives with respect to both ratified and unratified Conventions (under article 7, paragraph 1(a), and paragraph 1(b), respectively). It was also important to note that this Committee was responsible for a process in which there

were several important actors besides itself. At the international level, the Committee of Experts and the International Labour Office were this Committee's main partners. However, the efficacy of the action of these international bodies (Committee on the Application of Standards, Committee of Experts, International Labour Office) would greatly depend on the usefulness of the information provided in the reports under article 22 and article 19 of the ILO Constitution. This information was not just presented by governments, but was complemented by the comments from the national employers' and workers' organizations concerned and by the relevant international organizations. All these participants formed an integral part of the process of ensuring that international labour standards were implemented in practice.

41. The representative of the Secretary-General pointed out that this year marked the tenth anniversary since the adoption of the 1997 constitutional amendment to update the body of standards by abrogating outdated instruments. She urged those States, which have not yet ratified this instrument to do so. This year also marked a special occasion: exactly 80 years ago, on 2 May 1927, the first working session of the Committee of Experts was held. In November 2006, an international colloquium was organized in Geneva to mark this important event, which was nothing less than the birth of an international mechanism to supervise the implementation of treaty-based obligations. Many of the presentations from this symposium, which would be published as a book, addressed fundamental questions concerning the role and dynamics of international supervision in treaty implementation. As the pioneer in this regard, the ILO had an important responsibility to promote new approaches and working methods for treaty supervision in the twenty-first century.

42. She underlined that in the years leading up to 1927, prior to the creation of the Conference Committee and the Committee of Experts 80 years ago, records of the Conference showed that discussions focused almost exclusively on ratification rather than on implementation and effective enforcement of ratified Conventions. During none of the Conference sessions until 1925 did the steadily growing body of information on the application of Conventions give rise to more than passing references on the part of delegates. The Conference debate in those early years centred primarily on the need for ratification, and the fears that ratification engendered. There was also an implicit fear that supervision could thwart ratification, without which there would be nothing to supervise. States were, of course, certain that while they would fully implement their conventional obligations, there was less certainty as to their neighbour's compliance, thus creating potential problems of market distortion and unfair competition. And so it was in this context at the Conference in 1926 that the Government delegate of the Irish Free State called for the creation of a politically independent technical and juridical Committee of Experts on the Application of Conventions and Recommendations, which began its work the following year. This was the genesis of the Committee of Experts. And it is in this context that the full title of both Committees takes its meaning: these are Committees to oversee the application – that is to say the implementation – of ILO instruments. Today, the fear and suspicion that hindered the system in the 1920s had not totally dissipated, but it had mutated: globalization was – in varying degrees – at the heart of many present and future social problems, as well as their benefits. This was why it was imperative to start by addressing these questions with the Maritime Labour Convention in a sector, which was global in nature and globalized by its commercial environment. This framework Convention was supported by a five-year action plan piloted by a tripartite advisory committee of "stakeholders" to shepherd this instrument so that it would enter into force. Clearly, the Organization could no longer afford the luxury of adopting standards without having them ratified and implemented.

43. Turning to the issue of the functioning of the supervisory system, the representative of the Secretary-General indicated that the system of treaty supervision – oversight through discussion – required clarity and efficacy. The system as a whole was strained. The increase in the number of ratifications had resulted in an overall increase in the number of reports

requested. This was the principal cause of the growing workload, in addition to the large number of reports requested each year because the previous years' reports have not been submitted on time. In the last five years, overdue reports had accounted for at least 32 per cent of the total reports requested. Moreover, the percentage of reports received by the due date (i.e. 1 September) was very low – less than 30 per cent of the total number of reports requested. These two factors noticeably increased the workload of the Office and the Committee of Experts as the latter pointed out every year in its report. The situation perturbed the reporting cycle for governments, which was designed to spread the requests evenly throughout the cycle. To enhance the clarity and efficacy of the supervisory system, the Tripartite Working Group on Working Methods of the Conference Committee had held three tripartite meetings during 2006–07 during the course of which it successfully dealt with all the issues referred to it. A number of proposals were made to improve time management, to include early scheduling of cases, and to adhere to the schedule of meetings. Basic issues of transparency and governance had been addressed. Criteria for the footnotes and special paragraphs used in the report of the Committee of Experts had been articulated and formalized. The early publication of a preliminary list of cases and the early decision on a final list, which had been implemented for the second time this year, constituted improvements in the procedures of the Committee. An information session for governments concerning the list of cases had also been proposed. In addition, the Office would be able to schedule cases when the governments themselves had not registered by the deadline. These recommendations should enhance the functioning of the Committee on the Application of Standards.

44. With regard to the issue of contributing to social progress, the speaker emphasized that the supervisory system was not a system of sanctions, but one of constructive engagement. The principal goal of the supervisory system was to identify problems of implementation and to facilitate compliance, in many cases through technical assistance. This was where standards country profiles, taking account of conclusions of the supervisory bodies, helped the Office to target technical assistance so that its expertise could bring real solutions to real problems. This pragmatic approach did not need to take on grandiose proportions, and was facilitated by the proximity to constituents inherent in tripartism. As noted in the enclosed fact sheet, the number of cases of progress over the past three years was on the increase and this was encouraging. The Tripartite Working Group on Working Methods of the Conference Committee looked favourably on the examination of cases of progress as well as problems of compliance at the Conference.

45. In conclusion, the representative of the Secretary-General underlined that the ILO method of oversight through discussion was a pragmatic approach to identifying often complex problems and helping States and the social partners to resolve them. The ILO supervisory system was neither a system of sanctions nor of fiat. The breadth of its institutional vision over time was indeed a benchmark for the whole of the international community. In all that was mentioned, there was enormous work for the Office to perform, as well as for governments and the social partners. The quality of the advice provided by the Office to the constituents depended to a large extent on the quality of the information received and the research carried out. As the ILO supervisory system advanced in its work, it should bear in mind what the Secretary-General of the United Nations (UN) had said: "the true measure of success is not how much we promise, but how much we deliver for those who need us".

46. The Committee welcomed Justice Robyn Layton, Chairperson of the Committee of Experts. She indicated that that the Committee celebrated its 80th anniversary with an International Symposium organized by the Office during its 77th Session (November–December 2006). The Symposium reflected on the special qualities that the Committee had contributed to the monitoring of international labour standards, which, according to many speakers, included the independence and impartiality of its work. The papers presented had also compared the work of the Committee of Experts and of the ILO as a whole with the operation of other

international monitoring bodies, demonstrating that the ILO structure and operation were significantly more efficient than other such bodies. It was a matter of pride that the Committee of Experts and the Conference Committee, with the considerable assistance of the Office, processed a tremendous volume of work each year. Whilst further improvements to operation at all levels were necessary, one should not lose sight of the significant achievements of the Organization. There were many challenges for the future and the interactive discussions during the Symposium contained various suggestions for improvements. The Committee of Expert's Subcommittee on Working Methods would further discuss these matters at its 78th Session, including any issues raised by the Conference Committee.

47. With regard to the membership of the Committee of Experts, she noted that two new members, namely Justice Koroma from Sierra Leone, a Judge of the International Court of Justice, and Justice Pal, a former Judge of the Supreme Court of India, attended the Committee's session for the first time. She also paid tribute to Professor Vukas from Croatia and Professor Mavrin from the Russian Federation who had attended the Committee for the last time.

48. The speaker further pointed to five main of areas of concern in the reporting process. The first was the decline in the number of reports received in respect of both member States and non-metropolitan territories. In 2006, the ILO had received 66 per cent of reports from member States, compared to 69 per cent in 2005. The situation was similar with non-metropolitan territories, in respect of which 68 per cent of the reports requested were received in 2006, as compared to 72 per cent in the previous year. The second area of concern was a continuing problem with the lateness of receipt of government reports. Whilst in 2006 there was a marginal improvement from the previous year, namely 29 per cent instead of 26 per cent, this still meant that only a little over a quarter of the reports due had been received on time. The third issue was the failure of member States to supply first reports. This year, in broad terms, only a third had been received, whereas last year approximately half had been received. A fourth concern was the lack of responses given by governments to the observations and direct requests made by the Committee of Experts. This had been the subject of specific follow-up by the Office but, notwithstanding that action, of the 44 governments to whom letters were sent, only 13 had responded. Finally, there had been a decrease in the number of observations received from employers' and workers' organizations. In 2006, 518 observations had been made in comparison with 577 the year before. In summary, overall there had been a continuing decline in Members fulfilling their respective constitutional responsibilities and this tended to undermine one of the underpinning strengths of the ILO, its tripartism. This had a cascading effect throughout the ILO, including the work of both of the Committee of Experts and the Conference Committee. No doubt these matters would continue to be discussed in order to not only stop the decline, but to turn it around. This required energy, commitment and collaborative work.

49. The speaker also stated that, in the context of the Committee of Experts' last session, as in previous years, a special sitting with the two Vice-Chairpersons of the Conference Committee had taken place. However, unlike earlier occasions, the Committee had suggested three specific issues for discussion: (1) the Readers' Note; (2) the number of footnotes whereby the Committee asks the Government to provide full particulars to the Conference; and (3) the insertion of a section in the General Report on highlights and major trends in the application of international labour standards in certain areas. These issues had been raised by a number of members of the Conference Committee at its last session. In relation to the Readers' Note, following input from both of the Vice-Chairpersons, the Committee of Experts had agreed it was appropriate to make some modifications, which appeared in the current report. With regard to the footnotes, there had been a discussion about the difficulties, which may be experienced by the Conference Committee if the

Committee of Experts' report had a particularly high number of requests to Government to provide full particulars. Issues had been also raised about the apparent focus of footnotes on matters of freedom of association when there were also other important issues. The third issue had been whether the Committee of Experts should insert highlights or major trends in relation to matters, which emerge from time to time as being of particular importance or interest. It had been pointed out that General Surveys only occurred one at a time with long intervals and also could not cover all areas. The discussion had included the benefits of having some contemporary comment on topical issues identified by the Committee of Experts when it was considering worldwide practices, which would be of benefit to Members. The discussion had also covered the issue of whether it was appropriate to include such trends or highlights in the General Report or whether it would be better to include them in another section of the Report. The discussions on these three topics had been useful and would be continued in the future. The Committee of Experts considered that the innovation of focusing on specific topics, in addition to statements by the Vice-Chairpersons, had improved the quality of its interactive discussion with the Conference Committee, and should therefore be maintained.

50. The Employer members and the Worker members, as well as all Government members who spoke, welcomed the presence of the Chairperson of the Committee of Experts in the general discussion of the Conference Committee.

51. Referring to the General Report, the Employer members noted that this year marked the 80th anniversary of this Committee and the Committee of Experts. The Employer members were appreciative of the Experts' invitation to exchange views with them during the November 2006 session of the Committee of Experts, as well as of the new format of dialogue on issues rather than statements of position. They noted that the Committee of Experts had been reviewing their working methods through a working group. The Employer members had a number of suggestions in that regard which included: more information on the reasons certain countries did not report for extended periods and strategies to address them; better organization of country observations to provide clarity on issues and facts; expansion of the country profiles in Report III (Part 2) to provide a longitudinal picture of Conventions ratified, references to the years of Experts' observations and this Committee's consideration of them, years in which a special or continued failure paragraph was adopted, and current Committee on Freedom of Association cases involving the country. Until this was done, it made little sense to even consider a country-based approach. Moreover, each observation needed to be written in anticipation of discussion by the Committee and published only after the Experts had assessed reports and responses to allegations, rather than just examining the allegations; and all comments by tripartite constituents should be included.

52. After several years of commenting on the Reader's Note, the Employer members were satisfied with it and hoped that there would be no need to change it in future reports. Concerning the examination of reports, there was concern about the number of double footnotes, which potentially limited the choice of cases for discussion, although, in 2007, the number had reduced. The Employer members proposed that single and double footnotes be made more visible by use of a heading or even reproduced as appendices. The Employer members attached particular importance to cases of progress as they were indicators of steps towards full implementation of ratified Conventions, but believed that the Experts could provide more information on the concrete steps taken as well as providing some qualitative indication of the level of significance of the progress made.

53. Referring to the section of the report on collaboration with other international organizations and functions relating to other international instruments, the Committee of Experts' report discussed the standards-related cooperation between the Committee of Experts and the UN, its agencies, the Council of Europe and others. The Employer members had requested in the

past that this section be shifted to the Information document on ratifications and standards-related activities. What they now found was that virtually the same material was reported in both the general part of the report and the Information document. Their preference was that this section be exclusively reported in the Information document. Furthermore, the Employer members did not understand the purpose within the Experts' mandate of the first nine pages of the Information document.

54. Finally, the Employer members had asked on several occasions that the Committee report be published in a manner comparable to the Experts' report with equal visibility. The present form and format was appropriate in the ILO Conference context but was not understandable outside the Conference at the national and local levels. As presently published, it did not look like a serious document in keeping with the work of a Committee that was the "heart of the ILO". The Employer members also requested that the Governing Body room be made more computer-friendly.

55. The Worker members welcomed the collaboration between the Committee of Experts and the Conference Committee which had become more interactive in recent years, and which had led to enriched debates while respecting the respective independence of the two bodies. These interactions concerned three issues: the Reader's Note, the footnotes and the inclusion in the General Report of the Committee of Experts of a section on the major trends in the application of international labour standards. The Worker members welcomed the significant reduction in the number of footnotes – five this year against 13 last year – which gave this Committee more leeway in establishing a list, as too many footnotes would limit the choice of cases through consultation with the social partners. They hoped that a section on major trends could soon be included once again in the report of the Committee of Experts for discussion in the Committee.

56. The last session of the Committee of Experts had also been the occasion to celebrate, during a colloquium, the 80th anniversary of these two bodies, created by the Conference in 1926. This colloquium, entitled "Protecting Labour Rights as Human Rights: Present and Future of International Supervision", had traced the evolution of the ILO standard-setting system, in the course of which the ratification of Conventions had been complemented by aspects concerning their implementation and supervision. The mandate of this Committee was therefore a dynamic one, which allowed it to adapt to the changing demands of the international situation. Fruitful debates had taken place on the different supervisory mechanisms – those based on the submission of reports, as in the case of the Committee of Experts, and those based on the submission of complaints, as in the case of the Committee on Freedom of Association, and had demonstrated the importance of maintaining an appropriate balance between these two systems of enforcing effective application of standards. The discussion had made it possible to formulate certain concerns, such as the rationalization of the working methods, the increase in resources, and the improvement in the visibility and impact of supervision.

57. The Worker members shared the concerns expressed with regard to the attempts to limit the independence of the different bodies and mechanisms of the UN and welcomed the soon to be published proceedings of the colloquium. They also noted with interest the revision of the working methods of the Committee of Experts with a view to strengthening the effectiveness of the standard-setting and supervisory systems. Furthermore, cases of progress had to be acknowledged and should serve as models. It was regrettable that the Committee did not have time to discuss more cases. In this respect, it was appropriate to observe that certain cases of progress were based exclusively on information provided by governments and concerned legislative amendments only, with no information on the application in practice of the Conventions. The 518 observations submitted by employers' and workers' organizations constituted further grounds for satisfaction as they gave a reliable picture of the national situation. Most (491) concerned observations submitted by

workers' organizations. It was essential for all these observations to be mentioned or examined by the Committee of Experts, which had not been the case in its last report. This was a cause for concern and was hopefully due to the late submission of reports by governments, which would delay their examination to the next meeting.

58. The Government member of the United States, speaking on behalf of the IMEC countries, expressed IMEC's appreciation of the continued efforts of the Committee of Experts to enhance the quality and impact of its report through its improved presentation and structure. Nevertheless, the speaker pointed out that the Committee's observations were not always easy to understand, and encouraged it to further explore how it could capture important issues and situations with greater clarity. She also noted that the Committee had developed basic criteria for inserting footnotes at the end of certain observations, and queried whether it also made use of specific criteria for distinguishing between observations and direct requests. It appeared to her that some elements of long observations would be more appropriate in a direct request. She considered that observations should be reserved for the most fundamental issues. IMEC remained concerned that, despite an ever-increasing workload, the Committee of Experts had operated at less than full capacity almost continually for the past decade. She again appealed to the Director-General to fill all the vacancies on the Committee without delay, observing that this was especially critical in light of the fact that two sitting Experts would have resigned before the next session. She thanked the Office for its tireless efforts to support the ILO supervisory bodies, and called on the Director-General to ensure that the essential work of the Standards Department remained among his top priorities. She also expressed support for the comment by the Committee of Experts regarding the vital role played by standards specialists from the ILO's subregional offices. Through Decent Work Country Programmes, the Office could and ought to ensure that the ILO field staff was fully integrated into the dialogue between the supervisory bodies and the countries concerned.

59. The Worker member of Pakistan affirmed the importance of the core values of the ILO, as enshrined in its Constitution and the Declaration of Philadelphia. He remarked that although the report of the Committee of Experts was a large one, it would not be possible for the Conference Committee to consider all the individual cases contained therein. However, all governments were obliged to give full consideration to the comments made by the Committee of Experts regardless of whether or not their cases were selected for discussion. He observed that, in a world witness to labour standards violations as a consequence of the changes wrought by globalization, developing countries looked to the ILO to promote decent work and espouse the elimination of forced labour and child labour. All countries that had ratified ILO Conventions were expected to fully apply them; in this regard, the developed countries were expected to assume the lead in ratifying and implementing Conventions, thus setting an example for other countries to follow. He asserted that technical assistance from the Office was necessary to fulfilling the ILO's mandate, in particular by strengthening the capacity of the social partners to ensure that Conventions were fully implemented. Effective tripartism at the national level was also critical towards this end, and this, in turn, was premised upon a full respect for freedom of association principles. With respect to Pakistan, the speaker stated that the Government was expected to honour the commitments it had previously made with respect to amending its laws on freedom of association. He also called upon the Government to promote the rights of migrant workers through the ratification of Convention No. 143, to address the issue of trafficking, and to redouble its pursuit of realizing the Decent Work Agenda. Only by such actions would it be possible to uphold the dignity of work.

60. The Government member of Lebanon noted that the report of the Committee of Experts this year was about 100 pages longer than last year. This reflected a more in-depth analysis of countries' efforts to meet their obligations with regard to the implementation of ratified Conventions, and the preparation of reports required by the ILO Constitution. She

underlined the importance of the mandate of the members of the Committee of Experts and noted there were presently only 18 members while the number of members was set at 20. She reiterated her request that the number of members be increased and called for an increase of Arab membership in the Committee. She requested some clarification from the ILO on the meaning of "international supervision" and of "limiting the independence" of various bodies and mechanisms within the UN system, raised at a colloquium entitled, "Protecting Labour Rights as Human Rights: Present and Future of International Supervision". She looked forward to receiving a clarification from the Office on the repercussions of the above on the performance of the ILO, on the obligations of member States, and on the ILO tripartite structure. She also requested some clarification on the methods of report-based systems, and those of complaints-based systems, which were also raised at the colloquium. Whilst appreciating the meetings held between the members of the Committee of Experts and the two Vice-Chairpersons of the Conference Committee for an exchange of views on the subject of including a country-based approach aimed at supervising the application of ratified Conventions, she reiterated the importance of including governments in such meetings as they were the main ones concerned by the reporting obligations that such an approach would entail. She then suggested including the list of Recommendations to the ratification document as they had an impact on the development of labour legislation. She wondered whether the cause for the decreasing number of ratifications in the last 15 years were due to a hastening in the adoption of Conventions, whose requirements were excessive. She also highlighted the importance of protecting migrant workers, the impact of applying international labour standards relating to non-discrimination, social security, and vocational training, which were all worthy of discussion in some type of framework. She also requested an increase in funds allocated to the Arab region and urged the Office to expedite the recruitment of the Standards' specialist and the filling of other vacant posts in Beirut. In conclusion, she questioned the omission of a number allocated to the ILO Maritime Labour Convention, 2006, and further requested the revision of the Arabic translation of article 24 of the ILO Constitution.

61. The Government member of Kenya welcomed the report of the Committee of Experts. He expressed his appreciation of the in-depth analysis of the situation in member States regarding their observation of Conventions and Recommendations. The recommendations provided by the Committee of Experts were critical for the effective application of international labour standards.

62. The Government member of Bahrain, speaking on behalf of the member States of the Gulf Cooperation Council (GCC), stated that the report of the Committee of Experts was both objective and impartial. He added that the period following the adoption of the ILO Declaration on Fundamental Principles and Rights at Work had seen an increase in the number of ratifications of ILO Conventions. There had been 20 ratifications of the fundamental Conventions by GCC member States since that time. He stated that some GCC member States had ratified all of the fundamental Conventions, while others were keen to continue that momentum with further ratifications as part of efforts to modernize and develop legislation to fulfil comprehensive social, economic and political objectives.

63. The Government member of Norway, also speaking on behalf of the Governments of Denmark, Finland, Iceland and Sweden, emphasized how the unique normative role of the ILO had been underlined by the report of the World Commission on the Social Dimension of Globalization. International labour standards and the supervision process influenced legislation and policies and thus helped achieve decent work and international development goals. Decent work had become a global goal and this further underscored the importance of the ILO's normative system. It was important for international labour standards and fundamental rights at work to be applied effectively, not least for the more vulnerable workers like women and young persons, who should be accorded special attention. She said that a more user-friendly presentation of supervisory comments would make ILO standards

more visible in multilateral and development networks, and thus a priority for donor investment. She believed that greater focus on ratification and implementation, along with more specific indicators of progress, were needed to improve respect for the ILO's normative system. The Nordic governments welcomed the ambitious and comprehensive document on improving standards-related activities that had been debated by the Governing Body in March 2007. Given that the issue was of the utmost importance, she eagerly awaited the corresponding plan of action. The work of the supervisory bodies provided an instructive overview of areas in which member States were highly active and of those in which more action was required. In addition to guiding countries in setting their priorities, the ILO's supervisory work should help give direction to the technical cooperation agenda of the Organization. She also stressed the importance of ensuring that governments were able to implement the ILO's core Conventions adequately and efficiently at national level. She reiterated the view that the ILO needed to strengthen its cooperation with the Bretton Woods institutions and with regional development banks on labour standards, employment and social protection, and poverty reduction strategies. She explained that the ILO's work on a strategy for employment promotion and poverty reduction was increasingly valued by other multilateral organizations, such as the World Bank. Given the complex and interlinked nature of many labour issues, tackling them was beyond the ability and mandate of the ILO alone. She thus noted with interest that the Office considered cooperation as a priority.

64. The Government member of Brazil emphasized the importance of the work of the Committee of Experts in achieving effective compliance with international labour standards and welcomed the fact that the discussions of the Conference Committee were relayed in detail to the Committee of Experts, thereby providing it with broad knowledge of the real situation, going beyond legislative aspects and taking into account the diversity of geographical, social and cultural situations.

65. The Worker member of Uruguay emphasized the importance of the work of the Committee of Experts and emphasized that the subjects that it covered were directly related to the deterioration in the conditions of labour, which had accompanied the globalization process. The task of the ILO and its methods of work were not based on sanctions, but on a constructive compromise between States. Nevertheless, this constructive compromise could not be seen in many countries. Ratification did not necessarily result in full effect being given to a Convention. Supervision was required to verify improvements in conditions of work in a context of freedom of association. In contrast, failure to ratify Conventions sometimes formed part of a strategy by countries to seek greater flexibility and to worsen conditions of employment in the majority of the countries of the world. The progress achieved needed to be verified in practice. It was necessary to assess the manner in which they led to improvements in the conditions of work. Mere statements of intent and of progress were not sufficient.

Fulfilment of standards-related obligations

66. The Employer members noted a continued decline in reports, which reinforced their concern about serious cases of non-compliance with reporting obligations. This threatened the functioning and even the credibility of the ILO supervisory system, he said, calling upon the Office to increase its efforts to support countries in improving compliance through a sustainable long-term approach.

67. The Worker members noted, with regard to the fulfilment of reporting obligations by member States, that the efforts made last year had not been pursued, in so far as the proportion of countries, which sent reports to the Office, had fallen to 66 per cent this year as against 69 per cent last year. This was often due to the lack of means and trained staff, which demonstrated the importance of having trained standard-setting experts in the field.

In this respect, the sending of letters by the Office to governments, informing them that their country would be included in the relevant paragraphs in the report of the Committee and the request for regional offices to contact and assist members encountering great difficulties was welcomed by the Worker members. Certain countries deserved to be mentioned for having made special efforts after many years to send all their reports, such as Afghanistan, Grenada, Guyana, Lao People's Democratic Republic, Aruba (the Netherlands) and Paraguay, while other governments had no excuse for not meeting their standard-setting obligations to the ILO. Too many reports had been sent between 1 September and the date of the meeting of the Committee of Experts or, even worse, between the meeting of that Committee and the Conference, which made their examination impossible. Such practices thwarted and undermined the effective functioning of the supervisory mechanism. It was appropriate to encourage governments to fulfil their obligations in a serious manner and to congratulate the Committee of Experts for having been able to examine a considerable number of late reports with a view to strengthening the effectiveness and credibility of the supervisory mechanism. Providing first reports also constituted a serious obligation. However, of the first 179 reports due, only 60 had been received.

68. Finally, the Worker members emphasized that the obligation to submit instruments was a first step towards ratification. Yet many member States had not submitted Conventions that had been adopted in the last seven years. The low level of ratification of Conventions was therefore not surprising when the first phase, that of submission to national authorities, had not been fulfilled. The governments concerned had therefore to provide reasons to the Committee to explain such failures, and it would be worthwhile to use a customized approach to assist them in meeting their obligations.

69. The Government member of Egypt remarked that her Government had fulfilled its reporting obligations by submitting all reports in a timely manner, with all of the relevant documents attached. She stressed that many governments required further training in the writing of reports for submission to the ILO supervisory bodies. The lack of knowledge and expertise in report writing affected the information contained in governments' reports, which in turn could lead to the governments' positions being inaccurately reflected. She considered, in this respect, that ILO field offices ought to provide the necessary assistance. The Government member of Lebanon indicated that her Government had submitted to the competent authorities Convention No. 187, and Recommendations Nos 197 and 198, and included a statement on her country's position thereon, which were sent to the Office. Moreover, the submission of the Maritime Convention was under way and all obligations under article 22 of the Constitution were fulfilled.

70. The Government member of Cuba recalled that compliance by governments with their reporting obligations was closely related to technical cooperation. In this respect, she emphasized the need to maintain the international labour standards specialists, whatever the outcome of the studies that were being undertaken on the structure of the ILO and the UN system, both in view of the direct assistance that they could provide governments and their participation in the formulation of Decent Work Country Programmes. These programmes should include the technical assistance required to achieve compliance with the respective obligations. She noted the decline in the percentage of reports received in relation to those requested. This problem should be examined in the light of the need for technical assistance in view of the effort required from governments to supply first reports and replies to the comments of the supervisory bodies.

71. The Government member of Bahrain also speaking on behalf of the GCC, emphasized the need for standards specialists at the Regional Office in Beirut and at headquarters in Geneva who were fluent in Arabic, so that they could provide member States with technical assistance and help them to prepare the required reports and to train their specialized

technical staff. He reiterated the importance of providing an Arabic translation of reports and questionnaires and suggested that it would be appropriate for ILO headquarters in Geneva to provide such translations. Not only would this ensure correct use of official terminology, but it would also facilitate better contact with all Arab countries.

Concluding remarks

72. In conclusion, the Worker members indicated that sending good quality reports in a timely manner was essential for the efficient functioning of the monitoring system, which was itself fundamental to the credibility of the Organization. That monitoring system should continue to inspire other international organizations. In order to improve the system, the Office must pursue its personal approach to governments experiencing difficulties in fulfilling their obligations. Furthermore, the governments and the Office must plan for the human and financial resources needed for fulfilling their obligations. The problems highlighted by the Chairperson of the Committee of Experts – a lower percentage of reports received and of initial reports sent out, the large number of late reports, insufficient numbers of government replies to the Experts' observations and direct requests, and a reduction, albeit small, in the number of observations from employers' and workers' organizations – were not insurmountable. Indeed, the significant increase seen several years ago in the number of observations prepared by workers' organizations was testimony to the fact. In addition, it was underlined that the issues raised in the observations of the workers' organizations were not always sufficiently taken up in the comments of the Experts. The Worker members hoped that next year would bring significant improvement in these areas and had urged workers' organizations to communicate their observation to the Experts.

73. The Employer members said that the general discussion had highlighted three main areas of consensus. First, there was clear recognition of the importance of the work of the Committee of Experts and of the complementarities between that Committee and the Committee on the Application of Standards. The two Committees had mutually reinforcing roles. Second, almost all speakers had acknowledged the problems encountered in the reporting process, which was of fundamental importance for the work of the Committee. As no real solutions had been proposed, a thorough examination of the issue was required. Third, it was clear that working methods had to be adapted and that there would need to be a follow-up to ensure the effective shaping of the Committee's working methods. In conclusion, the Employer members welcomed a useful general discussion.

The reply of the Chairperson of the Committee of Experts

74. The Chairperson of the Committee of Experts expressed gratitude for the appreciation of the work of the Committee of Experts and for the excellent debate, which she would report back to her Committee. First of all, she noted the concerns expressed by many speakers who endorsed the position of the Committee of Experts on the seriousness of: the failure of governments to send reports under article 22 of the ILO Constitution; government reports not being available by 1 September; and communications being received in the days leading up to and even during the session of the Committee of Experts. She wished to underline the enormous strain placed on the Office and on the Committee of Experts with the receipt of so many late reports and communications.

75. Regarding the point raised by the Employer members on the more numerous observations made on the Conventions relating to freedom of association and collective bargaining in comparison to other Conventions including the fundamental ones, she wished to underline that this was in part due to the fact that the Committee of Experts was a responsive Committee. This phenomenon was in part the product of the content of observations made

by the social partners who had sent far more comments relating to issues of freedom of association and collective bargaining under article 23 of the ILO Constitution. The Committee of Experts responded accordingly. Additionally, in relation to the fewer observations on the forced labour Conventions, this was due to the fact that a General Survey on forced labour had been carried out last year. Due to the limited personnel available, this naturally had had an impact on the number of article 22 files that had been dealt with in this domain. Moreover, some of the files had concerned issues, which were to be dealt with in some depth in the General Survey. Hence, it had been preferable to defer consideration of these files pending the clarification of these issues in the General Survey.

76. Referring to the proposal made by the Employer members to expand country profiles in Report III (Part 2) to provide a longitudinal picture of Conventions ratified, references to the years of Experts' observations and this Committee's consideration of them, and current Committee on Freedom of Association cases involving the country, she found this suggestion to be a very interesting one. She would draw the attention of the Committee of Experts to this suggestion, as well as the suggestion by Employer members to make double footnotes more visible. Similarly, she had noted the statement by the Government member of the United States, speaking on behalf of IMEC, who had welcomed the inclusion of cases of progress in the report and had underlined their usefulness in drawing attention to current best practices. She would accordingly draw the attention of the Committee of Experts to the suggestion made by IMEC to raise the visibility of cases of progress in the report of the Experts. Finally, she had noted comments by some speakers on the need to further improve the clarity of the observations in the Committee of Experts' report and she assured the Committee that the Experts' endeavours on this issue would continue. In conclusion, she was pleased that this Committee welcomed the continued communication and cooperation with the Committee of Experts which was natural given that they were both, after all, working towards a common goal.

The reply of the representative of the Secretary-General

77. At the very outset, the representative of the Secretary-General wished to thank all those who had participated in this discussion and to underline its importance for the secretariat. Indeed, the general discussion had provided an opportunity to have comments and suggestions made by the constituents on the discharge by the secretariat of its core responsibilities relating to the support of the work of the supervisory bodies. The Chairperson of the Committee of Experts had already responded to the issues raised concerning the report of the Committee of Experts. She would therefore address the following matters: (i) the individualized follow-up undertaken by the Office to cases of serious failure by member States to respect their reporting and other standards-related obligations; (ii) processing by the Office of the comments received from employers' and workers' organizations on the application of ratified Conventions; (iii) the content of the Information document on ratification and standards-related activities; (iv) the filling of vacancies within the Committee of Experts; and (v) other issues.

78. Regarding the first issue, the speaker pointed out that the Employer and Worker members, together with the Chairperson of the Committee of Experts, had expressed concerns over the decline in the number of reports received and the lateness of receipt of the majority of reports, while acknowledging the Office's efforts to follow-up on the cases concerned. Two years ago, at the request of this Committee, the Office had launched an innovative individualized follow-up to identify the reasons for persistent failures so that targeted assistance could be designed for member States to address their difficulties and build capacity for reporting and implementation. The Office had contacted each of the countries mentioned in the reports of the Conference Committee and, in light of the replies received, organized a number of technical assistance activities. In addition, over the last year, the

International Labour Standards Department had provided systematic financial support to technical assistance activities directly undertaken by the subregional offices in relation to cases of serious failures. Over the past two years, the conclusions of the Committee on the Application of Standards on cases of serious failures had served to prioritize the Department's technical assistance to member States and its coordination with the subregional offices and the Turin Centre. This exercise had proved to be invaluable. Indeed, over the past two years, the individualized approach had raised awareness as to the importance of these obligations, and had encouraged a number of countries to fulfil their obligations. On the other hand, the Office's efforts were but one element of the systematic, sustainable, long-term approach called for by the Employer members to tackle the decline in the submission of reports. This approach formed part of ILO technical cooperation since, as the Worker members had pointed out, structural reasons were at the root of the majority of cases of serious failure. Hence, the Office's proposal, which had met with consensus during the March session of the Governing Body, to proceed with an integrated action programme to be agreed with the national tripartite constituents to improve the impact of standards at the national level, would be taken forward. This action programme would, where appropriate, have a component on the strengthening of reporting capacity and training and institutional capacity building. This would be included in the Decent Work Country Programmes where they had been developed. Hopefully, this approach would soon bear fruit; the Office would keep the Committee informed of the developments and progress made.

79. The speaker then turned to the Worker members' remarks that some comments made by workers' organizations had not been mentioned or examined in the current report of the Committee of Experts. As employers' and workers' organizations were informed in the annual circular letter issued by the Office in March, comments received after 1 September would not be examined by the Committee of Experts at the following session. The reason for this had to do with due process, which required notification of governments and allowing sufficient time to reply. The Committee of Experts had also decided that no mention should be made in its observations of the existence of pending comments received from employers' and workers' organizations after 1 September, unless a report was due that year. Exceptions to these arrangements related to comments presenting serious and grave allegations of important acts of non-compliance or comments relating to legislative changes or proposals having a fundamental impact on the application of a Convention. These measures formed part of the guidance provided by the Committee of Experts to the secretariat for processing comments at its last session, and to which reference was made in paragraph 13 of the General Report. A number of workers' organizations' comments were received after 1 September 2006.

80. She then addressed the following two points made by the Employer members: (i) section III of the General Report of the Committee of Experts – "collaboration with other international organizations and functions relating to other international instruments" – should be dealt with in the Information document, as section III did not present information falling under the mandate of the Committee of Experts and would be more appropriately reflected in the Information document which reported on the Office's activities in relation to international labour standards; and (ii) the purpose of the first nine pages of the Information document. To address these two interrelated points, she recalled that, at the request of Employer members in 2003, a number of topics which had been previously addressed in the General Report of the Committee of Experts, were shifted to the Information document as they related to the Office's activities rather than to the discharge by the Committee of Experts of its mandate. As she had explained to the Committee in 2005, the current section III had remained in the General Report of the Committee of Experts as certain aspects directly fell under the scope of the mandate of the Committee of Experts. These aspects were: the information requested from other international organizations concerning the application of certain Conventions and that could assist the Committee of Experts in examining the

application of ratified Conventions; the manner in which UN human rights treaty bodies took into account the Committee of Experts' comments on subjects of common interest; the Committee of Experts' (and not the Office's) specific collaboration with the UN Committee on Economic, Social and Cultural Rights; the examination by the Committee of Experts of reports submitted by governments on the application of the European Code of Social Security and its Protocol. Nevertheless, to take into account the Employer members' comments, any other issues relating more appropriately to activities carried out by the Office had been moved to the Information document, as could be seen in paragraphs 63–67 of the Information document submitted to the Committee in 2006. This explained why this section appeared in both documents. The duplication of information noticed by the Employer members between this year's General Report and the Information document was an error, which only came to the attention of the Office after the Information document had been printed. This error would not be repeated. With respect to the first nine pages of the Information document, these pages presented information on the most recent developments concerning the adoption of new standards and the discussion held within the Governing Body on the implementation of the strategy for standards. The information contained therein was purely factual and aimed at providing the members of the Committee with information on the other components of the standards system. This was also the reason why it had been reflected in the Information document, which was a report by the Office on international labour standards-related activities carried out.

81. In respect of the concerns raised by certain speakers that the Committee of Experts was still not functioning to its full operating capacity, the representative of the Secretary-General underlined that, according to a decision taken by the Governing Body in 1983, the total number of Experts was 20. However, since 2003, the Committee of Experts had not had a full complement. The two posts, which became vacant with the recent departures of Mr Mavrin and Mr Vukas would hopefully be filled before the next session of the Committee. The appointment of two additional Experts would be examined by the Office.

82. Moreover, the Employer members had suggested that the country profiles set out in Part III of the Information document be expanded and made concrete proposals to that end which the Office would take into account in the preparation of the next Information document. On the other hand, it should be recalled that the designation "country profiles" was used to cover different existing initiatives. Thus since last March a NATLEX country profile portal, bringing together all standards-related information regarding a particular member State into one access portal, had been put online on the Department web site. This portal mainly drew from the four databases administered by the Department to include accurate and regularly updated information by country on: ratifications of Conventions, including proposals for ratification of up to date and revised Conventions; comments of all supervisory bodies; basic national laws; legislative profiles and legal research links. This tool aimed at ensuring that all the information generated by the supervisory system was shared within the Office, with constituents, as well as with other agencies and the public. The country profile portal would be further developed to support the implementation of the strategy currently discussed within the Governing Body. In particular, it was proposed to use this portal with a view to developing integrated information offering a complete picture for each country on international labour standards, which would hopefully meet the constituent's needs.

83. The speaker then turned to two issues raised by the Government member of Lebanon. On her request for clarification concerning certain topics addressed during the colloquium on the 80th anniversary of the Committee of Experts, the expression "international supervision" was a designation used to refer globally to the different supervisory mechanisms established under a number of international treaties within and outside the UN system. Within the operation of these different mechanisms, supervision was triggered either through a report on the application of the treaty in question or a complaint limited to alleged violations of the treaty. The ILO supervisory system combined both processes: on

the one hand, the reports submitted under articles 22 and 19 of the Constitution, at regular intervals, aimed at providing a full picture of the application in law and practice of the Conventions; and, on the other hand, the representations under article 24 and the complaints under article 26 (or with the Committee on Freedom of Association) presented alleged violations of Conventions on a more exceptional basis. That was what was meant by "report-based systems" and "complaint-based systems". Finally, she wished to reassure the Government member of Lebanon that the concerns raised during the colloquium about recent attempts to limit the independence of various supervisory bodies within the UN system, in particular through their membership, did not apply to the Committee of Experts. On the contrary, all the participants in the colloquium recognized that the strength of the ILO supervisory system lay in the synergy between the Committee of Experts, composed of international personalities of recognized juridical competence and independent standing, and the Committee on the Application of Standards, which was tripartism in action.

84. Finally, with regard to the question of whether the number of the Maritime Labour Convention had been omitted, the speaker emphasized that ILO Conventions had always had a number. And for better or worse, these important instruments had become known in ILO shorthand more often by their number than by their name. With the Maritime Labour Convention, which formed part of an international maritime system including the UN and other specialized agencies, it was felt more appropriate to give this important instrument a name and to use it. It did indeed have a number (No. 186) but the name was still used. She concluded by stating that the Office had paid attention to all the comments made and would take them on board with a view to enhancing the work of the Committee.

C. Reports requested under article 19 of the Constitution

Forced Labour Convention, 1930 (No. 29), and Abolition of Forced Labour Convention, 1957 (No. 105)

85. The Committee devoted part of its general discussion to the examination of the General Survey carried out by the Committee of Experts on the application of the Forced Labour Convention, 1930 (No. 29), and the Abolition of Forced Labour Convention, 1957 (No. 105). In accordance with the usual practice, this survey took into account information communicated by governments under article 19 of the Constitution, as well as the information communicated by member States which have ratified the instruments in their reports submitted under articles 22 and 35 of the Constitution and the comments received from employers' and workers' organizations to which the government reports were communicated in accordance with article 23, paragraph 2, of the ILO Constitution.

Opening remarks

86. The Worker members indicated that the Conference Committee had looked into the issue of forced labour several times. The General Survey was the fourth on the two fundamental ILO Conventions in question, which had received the most ratifications. Although Conventions Nos 29 and 105 had been adopted in international contexts marked respectively by colonization and its disappearance at the end of the 1950s, they were still topical and just as relevant in a world that was undergoing a radical transformation. Globalization, the end of the welfare state, international migration, increased impoverishment of populations, the vulnerability of certain categories of persons and workers, and the permanence of certain ancestral forced labour practices were causing a resurgence of forced labour, not only in developing countries, but also in developed

countries. Although the types and forms of the forced labour might differ, the practice affected all sectors and all countries.

87. The Worker members considered that two basic elements of the definition of "forced or compulsory labour" given in Convention No. 29 – *the menace of any penalty and voluntary offer* – which directly concerned the willingness, freedom and consent of workers, should be examined in relation to the timing of wage payments, as provided for in the Protection of Wages Convention, 1949 (No. 95). They expressed the opinion that, in employment relationships in which remuneration was no longer paid or paid intermittently, the concept of a *voluntary offer* (which was linked to the general rule of knowing the level of remuneration and the timing of wage payments) did not exist. Consequently, as soon as the voluntary offer failed, the nature of the employment relationship was modified, thus becoming a form of forced labour. The circumstances were the same in the case of overtime illegally imposed on the worker under the menace of a penalty, in violation of Convention No. 29.

88. The General Survey looked into two new forms of forced labour: the privatization of prisons and prison labour; and compulsory work as a condition for receiving unemployment benefits. In relation to the latter, the Committee of Experts had recalled that the penalty (as an element of the definition of "forced or compulsory labour") could take the form of a loss of rights or privileges, and had made a distinction between two situations: that in which the benefit constituted a right emanating from the work or from previous contributions; and that in which an allowance was granted for purely social reasons. In the event that the beneficiary was required to have worked or contributed to an unemployment insurance scheme for a minimum period of time and that the period during which the benefit was paid was linked to the duration of the period of activity, the fact of requiring work to be carried out did constitute compulsory work imposed under the menace of cancellation of the benefits to which the person concerned was entitled.

89. With respect to prison labour, the Worker members observed that work carried out in prison aimed to facilitate the reintegration into society of prisoners upon leaving the prison. Nevertheless, although it was true that a prisoner did not enjoy the same rights as an ordinary worker, compulsory work carried out by convicted persons had to be subject to a number of conditions that were clearly set out in the General Survey. The condition of supervision and control of a public authority referred to the notion of the public service that the State had to provide, in order to prevent abuses. Regarding the prohibition of hiring out convicted persons to or placing them at the disposal of private individuals, companies or associations, the Worker members felt that it was important to reiterate that prison work was not a means for companies to ensure low-cost production or to obtain preferential rates. However, it should be emphasized that work by prisoners in private prisons was not necessarily incompatible with the Convention, if measures were taken with a view to ensuring voluntary acceptance of the work by prisoners, without their being subjected to pressure or the menace of any penalty.

90. The Worker members pointed out that trafficking in persons for the purpose of exploitation remained today a major problem, and one that was related to transnational crime. The various measures in place for helping victims of trafficking seemed to be based on an underestimation of the problems encountered by the victims. Thus, governments, in particular those of the destination countries, had to be more attentive to those problems and to raise awareness of them among the staff of the various bodies assisting victims. It was also essential to make a distinction between trafficking in persons and migration. Illegal migrant workers were particularly vulnerable. In many countries, the ability to obtain or renew a residence permit depended on the existence of an employment contract, which trapped the migrant worker in a vicious circle that made denunciation to the authorities of any violations impossible, owing to the worker's fear of being deported to his or her

country of origin. The solution lay in a system for the protection and reintegration of victims. Legislation needed to provide illegal workers, or those awaiting legalization, with the possibility of denouncing violations to which they fell victim without requiring them to be in possession of a residence permit and without causing them to fear deportation to their country of origin.

91. The Worker members drew attention to other forms of forced labour, such as debt bondage, which remained prevalent in many countries, under the weight of tradition. Measures had to be taken to raise the awareness of the populations of those countries – where victims were often not aware that they were being exploited – in order to bring about a change in mentality. The Worker members referred to the problem of domestic workers who were taken to work in another country by their employers, particularly in the case of diplomats and international civil servants, where their employment status depended on their employers and they were therefore obliged to remain with that employer under the menace of being left as illegal workers in a foreign country if they left their service.

92. The Worker members highlighted the need for victims to have the opportunity of recourse to justice in order to pursue the perpetrators of such violations. In many countries, that possibility was open only to those in possession of a residence permit, and yet victims of trafficking often had their permits confiscated by their exploiters. Issuing victims with residence permits should allow them to bring the violations to which they had been subjected to the attention of the authorities and thus enable the networks to be dismantled. Such solutions, which existed in many countries, needed to be extended. The existence of an effective judicial system and the application of dissuasive sanctions were indispensable in eradicating this blight. Cooperation between sending, transit and receiving countries was also indispensable for curbing the phenomenon at every stage.

93. Child labour also remained one of the major concerns of the Worker members. Although the problem was dealt with in the Worst Forms of Child Labour Convention, 1999 (No. 182), the General Survey provided an opportunity to remind everyone of the need to continue the struggle in this field.

94. The Worker members expressed their concern with the fact that the prohibition of strikes under the threat of sanctions remained a current practice. The right to strike was not incompatible with the concept of essential public services, but that concept should not be applied in such a manner that the workers concerned were prevent exercising the right to strike. In that regard, the Committee on Freedom of Association had developed a very full case law, which had been taken up by the Conference Committee in its present conclusions.

95. The Worker members indicated that forced labour needed to be combated at all levels, from the issue of the shortage of quality employment in sending countries, to the provision of support to emancipated workers. This could not be done without effective national legislation, strengthened implementation mechanisms, and increased awareness raising to inform public opinion of human rights violations. Projects such as the ILO Special Action Programme to combat Forced Labour, created in 2001, which was at the origin of many projects to combat forced labour in the world, were vital in this respect.

96. The Employer members stated that the General Survey provided a picture of the evolution of forced labour from its traditional forms, such as slavery, to more modern and more geographically expansive forms, such as the trafficking in women and children. The 28-year gap since the previous General Survey on this subject was difficult to understand, particularly in view of the number of persons affected. The subject of forced or child labour was only rarely discussed in the Committee, even though Conventions Nos 29 and 105 were the most highly ratified of the fundamental ILO standards and there was universal condemnation of forced labour. Nevertheless, the 2001 and 2005 Global Reports and the

present General Survey documented widespread serious situations of forced labour involving nearly half of the ILO member States. In view of this startling situation, the Employer members appealed to all governments to indicate the steps that were being taken for the elimination of forced labour.

97. The Employer members noted that, according to the General Survey, there were violations of Conventions on forced labour in certain countries involving slavery and abductions, compulsory participation in public works and coercive recruitment systems. In a number of countries, there were numerous cases of forced labour involving domestic workers, as well as serious problems of bonded labour, including child bonded labour. Moreover, the well-known case of forced labour imposed by the military in Myanmar had been discussed by the Committee since 1980 and was so serious and long-standing that it had been addressed in the context of article 33 of the ILO Constitution.

98. The trafficking in persons involved over 60 ILO member States as sending, transit or receiving countries. In view of the size and scale of the problem, it might have been expected that a substantial part of the General Survey would be devoted to this issue. However, in this regard as well as in the context of child labour, the General Survey did not differentiate as clearly as it could between forced labour and exploitation, particularly where individuals had offered themselves voluntarily and were not under the menace of a penalty. The Employer members emphasized that forced labour and exploitation were not the same thing.

99. The Employer members added that the General Survey devoted an undue amount of space to one of the least extensive forms of forced labour involving the privatization of prisons and private prison labour. In so doing, the Committee of Experts had placed significant emphasis on the preparatory work to Convention No. 29. This was in line with the practice outlined in the Vienna Convention on the Law of Treaties and the Employer members urged the Committee of Experts to adopt the same approach in other contexts, particularly with regard to Conventions Nos 87 and 98. In the view of the Employer members, there had been a shift in the position of the Committee of Experts, particularly as set out in the executive summary, which at least partially reflected the realities of modern rehabilitation regimes. However, the discussion on this matter in the General Survey itself appeared to be unduly complex, undoubtedly reflecting the internal intellectual struggle as the Committee of Experts endeavoured to update its views. A much more simplified explanation was required to clarify the matter for governments. The central issue in the change of position turned on the recognition that "voluntariness" in the prison setting could involve a host of factors and conditions approximating a free labour relationship. In the view of the Employer members, in addition to the examples provided, there was a strong likelihood of voluntariness whenever the conditions of private prison labour were better than those of institutional or traditional prison labour.

100. The Committee of Experts also appeared to be breaking new ground with regard to alternative sentencing for community work in lieu of time in jail. In this respect, the Employer members expressed the view that the Experts' interpretation is not linked to the text of Convention No. 29. As it was the very purpose of a community service sentence that the work be performed with no remuneration, the person was not concerned whether he or she worked for a private or a public institution. The Employer members considered that, once it had been shown that the work was performed voluntarily, it was permitted under the Convention, and it did not matter whether or not it was performed "in the public interest", for a "non-profit-making entity" or one which made a profit.

101. The Committee of Experts had also broken new ground on the issue of unemployment benefits with its conclusion that the post-entitlement imposition of work requirements as a condition for receiving unemployment benefits was forced labour. In the view of the

Employer members, this analysis was not based on the text of Convention No. 29 and marginalized the very serious subject of forced labour. The subsequent imposition of a duty to do some work pending a job search might be justified by the need to counteract abuse of unemployment benefit and/or to stabilize the funding basis of the unemployment insurance system. Unemployment insurance might also provide for an obligation to accept any work (even unsuitable) as a precondition for obtaining unemployment benefit. The criterion of "suitable work" referred to by the Committee of Experts was unconvincing and the situation could not be assessed without comprehensive consideration of national circumstances.

102. The Committee of Experts also considered that an obligation to do overtime outside normal daily working hours could constitute forced labour in cases where a worker faced dismissal. In the view of the Employer members, this interpretation marginalized the central purpose of forced labour. What was really at issue was the enforcement of national rules regarding hours of work and the minimum wage. It also ignored the basis on which an individual agreed to perform work. If a worker understood when accepting work that overtime might be required, the performance of overtime was not forced labour.

103. With regard to Convention No. 105, the Employer members agreed with the emphasis of the Committee of Experts that it was not an instrument to regulate questions of strikes in general. It simply prohibited punishment involving compulsory labour for participation in a legal strike. With regard to participation in strikes in the public services and essential services, the Committee of Experts considered that penalties involving compulsory labour could only be applied in relation to "essential services in the strict sense of the term", that is services the interruption of which would endanger the life, personal safety or health of the whole or part of the population. For reasons previously raised in relation to Conventions Nos 87 and 98, the Employer members concluded that the reference to essential services was too restrictive because it did not take into account differences in national circumstances and provided for detailed elaboration on the right to strike which was not expressly provided for in any ILO instrument.

104. The Employer members concluded that Conventions Nos 29 and 105 retained their importance and value as safeguards against threats to a free employment relationship. They were therefore important cornerstones of free market economies. Most problems of compliance occurred in countries where market economies still did not exist, poverty was a factor in the society or important restrictions applied to the functioning of markets. The Employer members added that the Committee of Experts should refrain from extending the application of Conventions to cover its own ideas of new forms of forced labour, since it was not a standard-setting body. The Committee of Experts should also revisit the issues raised in the debate, including trafficking, private prison labour, overtime work, unemployment benefits and participation in strikes in order to focus on the essential issues covered by these fundamental instruments. The Employer members pointed out that a Protocol to Convention No. 29 would be unnecessary.

Combating forced labour in the modern world (persistence of traditional forms of forced labour; new trends and phenomena): Developing legislation, strengthening law enforcement, increasing prevention and protection measures, enhancing international cooperation

105. The Government member of India stated that his country, which had ratified both Conventions on forced labour, had always been concerned about the abolition of bonded labour. An Act abolishing bonded labour had been enacted in 1976. It made exacting

bonded labour a criminal offence punishable with imprisonment for up to three years and provided for the setting up of vigilance committees at district and subdivisional levels to detect bonded labour. The Government had also launched a rehabilitation scheme, under which funds were provided for the state governments to carry out surveys to identify bonded labour in sensitive districts. As a result of these steps by the central and state governments, the incidence of bonded labour had decreased from more than 8,000 cases identified in 1999–2000 to 197 cases in 2006–07. The speaker regretted that isolated cases of bonded labour in his country were picked up and exaggerated by some international organizations and agencies. He reiterated his Government's commitment to the complete eradication of bonded labour. Bonded or forced labour was not only a social issue, but also an economic issue, because forced labour existed when the worker did not have alternative employment opportunities. The speaker was confident that such alternative opportunities would increase as his country's economy was growing at around 9 per cent, and his Government was implementing important employment programmes. The critical factor in an increasingly integrated global environment was international market access for goods and services produced by the local workforce. If market access was not available for goods and services, thereby limiting employment opportunities, there would always be a predilection for workers to fall into bondage. Market access was therefore one of the primary causes of the widening gap between the rich and the poor referred to in the General Survey. The speaker called on the ILO to contribute to the creation of an international environment in which there were greater opportunities for the workforce.

106. The Government member of Sweden, speaking on behalf of the Government members of Denmark, Finland, Iceland, Norway and Sweden, appreciated the General Survey on forced labour. She indicated that Conventions Nos 29 and 105 were the most widely ratified of all ILO instruments, reflecting a worldwide ambition to eliminate forced labour. The General Survey identified more than 100 cases of progress, but the Director-General of the ILO had estimated in June 2005 that there were at least 12.3 million victims of forced labour. The General Survey showed that forced labour was present in some form on all continents in almost all countries and in every economy, but the type of problems regarding forced labour differed from one part of the world to another. In Europe and North America, an increasing number of persons were victims of trafficking for sexual and labour exploitation. Under Convention No. 29, the states not only had to abstain from forced or compulsory labour, but also had to act in order to suppress it. Such action could not be taken alone, because problems went beyond the borders of a single country. The complexity of the issues necessitated a multidimensional and cross-sectoral engagement at many levels and by many actors of society, and effective law enforcement as well as the adoption of preventive and protective measures to combat the trafficking in persons. The Nordic governments had taken various steps in this regard. For example, the Nordic Council of Ministers had agreed on a project to prevent teenagers from the Baltic Sea countries from being trafficked. The governments had also met to discuss national action plans aimed at a coordinated national anti-trafficking approach involving prevention of trafficking, prosecution of the perpetrators and protection of the victims. The speaker regretted that the problem of forced or compulsory labour still existed in a traditional form even though the world had changed since the adoption of Convention No. 29 in 1930. The General Survey contributed to discussion of the subject by clarifying important points and furthering knowledge and understanding of the two Conventions. The speaker urged the member States that had not yet ratified these Conventions to ratify them and called on those States that had ratified them to do everything possible to fully apply the letter and spirit of the Conventions.

107. The Employer member of Australia stated that the General Survey provided an excellent opportunity for an in-depth discussion which took national circumstances into account. He warmly welcomed the survey, which would serve as a basis for raising the profile of a problem that persisted despite the high rate of ratification of the respective Conventions.

The prohibition of all forms of forced labour was a peremptory norm in international human rights. The General Survey identified examples of slavery or slave-like practices, human trafficking and bonded labour, in relation to which the international community needed to respond with a high level of commitment. The speaker also welcomed the examination in the General Survey of the relationship between the Palermo Protocol and Convention No. 29. However, he believed that the focus on these issues was blurred when marginal matters were considered. Reference had been made in this respect by the Employer members to such issues as the privatization of prisons, prison labour, community service orders, the requirement of work as a condition for receiving unemployment benefits and compulsory overtime. On the latter two issues, the speaker considered that the General Survey created complex distinctions that were highly debatable. While understanding that the Committee of Experts wished to try and examine forced labour in all its forms, its analysis created complexity for governments and care should be taken not to strain the meaning of the Convention. For example, the issue of overtime work was more properly viewed as a matter relating to hours of work and conditions of employment, rather than compulsion to work. The requirement to perform work for the receipt of unemployment benefit reflected the increasing emphasis on active labour market policies, which were advocated by a very broad community. The use of Convention No. 29 to create such artificial distinctions was liable to undermine public confidence in one of the most significant bodies of the ILO.

108. The Worker member of the United States noted the statement by the Government of the United States concerning the ratification prospects for Convention No. 29, as reported in the General Survey, to the effect that it was not envisaged for the time being. The primary obstacle to ratification was cited as the continuing concern that the Convention could be construed and applied to limit the extent to which the private sector might be involved with prison labour. With regard to the privatization of prisons, the speaker noted the indication in the General Survey that over 30 states in his country now had laws that permitted contracting for the private operation of state prisons, and that approximately 77,000 individuals were incarcerated in prisons managed by profit-making corporations. These figures showed private prisons were on the increase and were becoming a very profitable industry. The number of cases of prison labour in privatized prisons was increasing at an alarming rate. In relation to mandatory overtime, the speaker stated that many workers in the United States were forced to work overtime under the menace of either disciplinary action or termination of employment. He considered that these were not fair options for continued employment and expressed concern at the pervasive existence of such mandatory overtime. The speaker regarded the public response by the Government of the United States to these issues as unacceptable. He urged his Government to review its current practices so as to ensure that they were in line with Convention No. 29 and to move more rapidly towards ratification of the Convention.

109. The Worker member of Colombia recalled that in historical terms the concept of forced labour had emerged from slavery, convict labour and other similar phenomena. It was now necessary to make greater efforts to identify more sophisticated forms of forced labour, such as those involving precarious work without social security rights, working hours which violated labour law and unacceptable working conditions. The Conference Committee should take into consideration the establishment of supervisory mechanisms to prevent unscrupulous operators disguising systems of forced labour or slavery under more sophisticated forms, such as assistants helping clients to pack their purchases in commercial establishments, who did not receive wages, social security or earnings other than tips from clients. The speaker considered it strange to observe that, although Conventions Nos 29 and 105 were amongst the most widely ratified, precarious employment, short-term contracts, fictive contracts and undeclared workers did not respect workers' rights and constituted a form of forced labour. Collaborative work was required to prevent the institutionalization of slave labour with official approval, as in the case of EPZs. Child labour, work in mines,

domestic work and bonded labour constituted a call for action by the ILO and the Conference Committee to combat this scourge. The "voluntary" nature of the performance of certain activities should not lead the members of the Committee astray in their determination to combat forced labour. In many areas of the world, the working class was subject to absurd systems which undermined the relation between capital and labour under unacceptable conditions. Moreover, even the ILO, which was responsible for setting and supervising standards, was not always the best example in relation to forced labour.

110. The Government member of Spain said that the General Survey was valuable in defining what was meant by forced labour at the present time. However, the issue of compulsory work as a condition for receiving unemployment benefits in the General Survey raised doubts: it was easy to see what it was trying to define, but the definition was not good enough and the paragraph was very confusing. A distinction should have been made between contributory and non-contributory unemployment benefits. While there would be no issue of forced labour for the former, it could exist for the latter, as the benefit was not related to work, but to a situation of need based on a lack of means of subsistence. In relation to work supplied in the form of minimum services essential for the community, the speaker said that in the event of a strike such services could never be considered as forced labour since the right of the community to have access to essential services prevailed. On the subject of overtime work, he said that, if it was not agreed to voluntarily by the worker, it constituted forced labour, as it jeopardized the right of workers to health, and therefore to life. The speaker considered that these aspects should have been covered much more clearly in the General Survey since precise terminology was a requirement that needed to be respected by jurists.

111. The Worker member of India recalled that millions of workers in almost every country had to offer their services to be sold at the lowest price, and well below official minimum wages, in view of the need for survival. There was no welfare state worthy of the name, particularly as wages were determined in a globalized world by the market forces of supply and demand. Surplus labour was being created by capital as a means of facilitating ruthless exploitation, with governments clearly acting as facilitators. Forced labour was now to be found in homes, in the form of trafficked women and children engaged in domestic work. It was also prevalent amongst migrant workers in factories and other establishments. Even though Convention No. 29 prohibited convicted persons from being placed at the disposal of private individuals, companies or associations, it was now the practice even in advanced countries for convicted persons to be made available to private entrepreneurs for the exploitation of their labour. Forced labour by women and children was also rampant in sex work. In today's globalized world, these forms of forced or compulsory labour afflicted persons who were obliged to sell their labour against their will, with the loss of their dignity. The ILO had to come to their rescue by ensuring that its Conventions were implemented, notwithstanding the protagonists of globalization who wished to maintain the exploitation of the economic system.

112. The Worker member of Côte d'Ivoire suggested that a new definition of forced labour might be needed for developing countries, particularly those in Africa. The forms of forced labour varied according to continents and countries. These forms concerned workers forced to accept totally unacceptable wages or working conditions in order to survive. He asked whether consciously accepting work that did not guarantee a subsistence wage, or working for 15 years on a daily contract, without social protection or pension, did not constitute forced labour. African labour codes were contributing to the legalization of forced labour in the name of development and company prosperity.

113. The Government member of the Bolivarian Republic of Venezuela said that his Government did not consider it sufficient to comply with the provisions contained in Conventions Nos 29 and 105, and had adopted measures which went far beyond those

Conventions. The neo-liberal policies applied for years throughout the world had given rise to labour conditions that were similar to forced labour. With a view to remedying this situation in his country, new laws had been enacted in the following areas: employment stability, employment for the disabled (5 per cent of the payroll), pensions aligned with the level of the minimum wage of US$286 and the elimination of the requirement to work overtime. The speaker urged other governments in the world to combat the introduction of neo-liberal policies which were leading to the over-exploitation of labour.

114. The Worker member of Pakistan emphasized that forced labour was a crime against humanity. And yet, despite the very high rate of ratification of Conventions Nos 29 and 105, there still remained a gap between law and practice. The roots of the practice of forced labour lay in the manner in which the colonial powers had used local labourers as slaves. The speaker warned that the present economic situation was resulting in a wider gap between the rich and the poor, with the poor being placed at a disadvantage by economic restructuring and by the denial of basic rights, such as the right to engage in collective bargaining and to defend themselves through industrial action. Governments needed to show a strong will to eliminate this evil from society, including the adoption of social measures and severe penalties for offenders. In order to combat the international trafficking of migrant workers, greater international coordination was needed, including the conclusion of meaningful bilateral agreements covering migrant workers with a view to securing decent conditions for them in relation to hours of work, wages, social security and safety and health, with particular reference to women and young persons. The measures taken to combat violations of workers' rights, particularly in the form of forced overtime, should include the reinforcement of labour inspection, especially in EPZs. It was the responsibility of the State to ensure that the conditions existed for the physical, mental and spiritual development of the population as a whole. Despite ILO action for the elimination of forced labour, and the tripartite efforts that were being made in his own country, more intensive action was required to eradicate this evil.

115. The Government member of the United States welcomed the important and long-awaited General Survey. She noted that the ILO's forced labour Conventions were as relevant and dynamic today as when they had first been adopted, despite the significant changes in recent decades and the emergence of new trends and phenomena. Although important progress had been made since the previous General Survey in 1979, it was clear that problems remained in both developing and industrialized countries. She agreed with the Committee of Experts that complex issues still needed to be resolved for the full implementation of the forced labour Conventions and hoped that the General Survey would contribute to better knowledge and understanding of them. However, she did not agree that a Protocol should be adopted with a view to revoking the outdated transitional provisions in Convention No. 29. As observed by the Committee of Experts, these provisions were hardly ever invoked as a justification for retaining forced or compulsory labour. In view of its limited effect, such a Protocol would not justify the major outlay in time and money required. The speaker shared the assessment of the Committee of Experts that trafficking was the most urgent problem of the twenty-first century in relation to Convention No. 29. She said that her country led the world in fighting against trafficking in persons in terms of protection, prosecution and prevention. The legislation in the United States mandated a wide range of activities, both domestically and internationally, to promote awareness of the issue, prosecute offenders and assist victims. She added that there were other appalling instances of forced labour which were an affront to human dignity. The speaker called on the countries in question to have recourse to international assistance to find acceptable alternatives and ensure that all persons within their jurisdiction were guaranteed the basic and inalienable right of protection from forced labour. The Committee of Experts had noted that in the few cases in which Convention No. 29 had not been ratified, the reasons for non-ratification appeared to be linked to the exceptions from the scope of the Convention, rather than the fundamental right that it protected. For example, while her country had ratified

Convention No. 105, consideration of Convention No. 29 had been suspended because of concerns about its impact on prison labour practices involving the private sector. The speaker was gratified that the Committee of Experts had taken such a careful look at many of the important issues surrounding privatized prisons and privatized prison labour, taking into account the views and comments expressed previously by the members of the Committee. A number of countries had taken modest steps recently towards the privatization of prison operations with a view to managing costs while at the same time continuing to provide rehabilitative services and job opportunities that would help prisoners prepare to re-enter the workforce upon release. It was to be welcomed that the Committee of Experts had now acknowledged that privatized prisons and privatized prison labour were not necessarily incompatible with Convention No. 29. The threshold question for forced labour issues was clearly voluntariness. The Committee of Experts had offered a useful general test on this issue – whether the work itself was performed under conditions that approximated a free labour relationship – as well as more specific, non-inclusive factors that could be taken into account. The speaker welcomed the guidance provided on the interplay of factors that helped to authenticate that consent was freely given and informed, thus ensuring compatibility with the Convention.

116. The Worker member of France drew attention to one of the two new phenomena highlighted by the Chairperson of the Committee of Experts: compulsory work as a condition for receiving unemployment benefits. Such a trend, which was developing within the framework of so-called active employment policies, clashed with ILO principles in several ways. In schemes where the payment of unemployment benefits was based on prior contributions, the withdrawal of benefits was indeed a penalty within the meaning of Convention No. 29. In its analysis, the Committee of Experts had referred to the Social Security (Minimum Standards) Convention, 1952 (No. 102), which included the concept of "suitable employment". This notion set the limit between work carried out willingly and compulsory work. The aim of unemployment benefit was to enable the worker to find suitable employment as quickly as possible – employment that took into account the individual's personal preferences and his or her expectations in terms of salary. The obligation to accept work that did not correspond to the individual's criteria not only impeded the search for suitable employment, but above all was a form of forced labour prohibited by Convention No. 29. The concept of freely chosen employment set out in the Employment Policy Convention, 1964 (No. 122), echoed the notion of offering oneself voluntarily that was contained in Convention No. 29. As emphasized by the Committee of Experts, not all employment was suitable, nor was any wage level. The payment of a very low wage was not proof that the employment had been chosen freely. In another context, the complaints currently being received by the Office of the ILO Liaison Officer in Yangon illustrated this distinction. In dealing with the complaints, the Office considered that the non-payment of a wage for work was proof, *prima facie*, of forced labour. But conversely, the payment of a minimum wage for work should not be considered as clear evidence of the non-existence of forced labour.

117. The Government member of the Republic of Korea thanked the Committee of Experts for the comprehensive General Survey, which provided guidance for all the member States. She recalled that the Republic of Korea had not ratified the forced labour Conventions in view of the existence of compulsory military service in the country, which was necessitated by the situation of conflict with the nuclear Democratic People's Republic of Korea. In her Government's view, compulsory military service should remain beyond the purview of the forced labour Conventions. Her Government was fully aware of the importance of the fundamental Conventions and would make continued efforts to bring its law and practice more into line with international labour standards.

118. The Worker member of Guatemala emphasized that it was shameful that 75 years after the adoption of Convention No. 29 and 50 years after that of Convention No. 105 forms of

slave-like forced labour persisted in various sectors, similar to those that had been rife in concentration camps, as was the case for example in EPZs in the textile sector. Workers were not treated as human beings there; they were not allowed to tend to their needs. Women workers were subjected to pregnancy tests and were made to take "anti-sleep" drugs so that they could work abusive hours. When factories closed, workers were left in total disarray without any type of benefits. Another example was the situation of drivers of heavy vehicles, and also in certain cases of urban transport, as well as prison guards whose conditions of work were similar to slavery. The same applied to the national police, whose members were exploited pitifully. It was necessary to draw attention to these types of work which were by their nature similar to forced labour.

119. The Government member of France emphasized the quality of the General Survey, which offered a comparative analysis of the evolution of law and practice of member States of the ILO concerning forced labour. Her Government had always been concerned with strengthening the fight against forced labour in all its forms. France had ratified the two Conventions on forced labour and was among the countries that had adopted specific provisions to punish certain types of forced labour, in addition to the penal legislation providing for sanctions in case of the exaction of forced or compulsory labour. The Act of 18 March 2003 made the trafficking of persons a specific offence and instituted two new offences with the aim to protect particularly vulnerable persons, such as foreigners, against the risk of being employed and entrapped in degrading conditions. It had to be emphasized that the burden of proof of the existence of a situation of forced labour had been significantly lightened, and it sufficed to prove knowledge by the employer of the state of dependence of a forced worker. Finally, penalties related to forced labour had been strengthened and an aggravating circumstance had been established when the victim was a minor.

120. The Worker member of Morocco congratulated the Committee of Experts on the General Survey. The speaker stated that the traditional definition of forced labour did not take into account certain emerging forms of forced labour. He gave the example of temporary workers in his own country, who were obliged to change from one temporary job to the next, because of their situation of dire need. He also cited the example of foreign workers, whose passports were withheld in certain rich Arab countries, and who worked in slave-like conditions. The speaker believed that unfettered liberalization and globalization had indubitably led to new forms of forced labour. The ratification of Conventions was no longer sufficient. What was needed was a strengthening of verification and supervision to bring an end to forced labour.

121. The Government member of Portugal commended the Committee of Experts on the General Survey, which raised the alert concerning the emergence of new forms of forced labour. He said that poverty was at the root of these forms of forced labour. One of the first measures to be taken in combating forced labour was the creation of decent jobs. The eradication of poverty was one of the Millennium Development Goals and the ILO had a major role to play in helping to establish the socio-economic conditions permitting the creation of productive and freely chosen jobs, in accordance with Convention No. 122. In order to achieve decent work conditions, it was necessary to comply with fundamental labour rights, freedom of association and collective bargaining. With regard to prison work, the speaker said that his delegation was in agreement with the requirement that consent be given for work with private enterprises, but that it was also necessary to add that the work should be "decent" and under conditions approximating those of free workers.

122. The Worker member of Tunisia commended the Committee of Experts on the General Survey on forced labour. He emphasized that forced labour was a flagrant violation of the very minimum level of humanity, and a crime inflicted on the working population in the world as a whole. It was indeed strange to discuss forced labour in its traditional concept in

this Committee in a world in which social justice and freedom of choice had allegedly prevailed. This was particularly true, as in some countries of the world governments imposed specific forms of work. The speaker believed that the problem went deeper than simply addressing forced labour. What was at stake was making the right economic choices so as to alleviate the suffering of workers. Forced labour in all its various forms hindered the possibilities of making choices. The choices available needed to be enhanced by the social partners through a deepening of social dialogue and the harmonization of economic and social welfare. The speaker called for greater respect for humanity and greater freedom of choice.

123. The Government member of Lebanon emphasized that the General Survey on Conventions Nos 29 and 105 was the fourth such Survey. And yet, each General Survey highlighted new forms of forced labour, especially in relation to Convention No. 29. In view of the continuing economic developments, the question arose as to whether the changes that might occur in the world of work in future would change the concept of labour by widening the definition of forced or involuntary labour, as envisaged under both Conventions. The speaker consequently underlined the importance of General Surveys in clarifying the provisions of Conventions. She was of the view that it would be preferable and more useful to undertake General Surveys shortly after the adoption of Conventions so as to enable countries to understand the true meaning of their provisions, which would lead to a better application of Conventions. Furthermore, the General Survey, which contained a plethora of analyses and clarifications raised the question of whether it would be appropriate to codify forced labour in an additional Protocol to Convention No. 29 or Convention No. 105. Another solution would be the adoption of an annex explaining the provisions of both Conventions, as the General Survey showed that some provisions of these Conventions were open to different interpretations. It should be recalled that the provisions of these two Conventions, which had been ratified by Lebanon, were somewhat ambiguous, which was not the case of other Conventions. Consequently, they needed constant interpretation by jurists and judges and their application required reference to several national laws, and several relevant international laws. Although the General Survey recognized the progress made in the adoption of legislation, giving effect to the provisions of both Conventions in member States, what was important was the application of such legislation. Better application required clarity in the texts, and training of the bodies responsible for application. They showed the importance of holding seminars and raising awareness of the provisions of Conventions Nos 29 and 105, and on those of other Conventions and the Palermo Protocol, which were mentioned in the General Survey. The General Survey highlighted the link between the forced labour Conventions and the provisions of other ILO Conventions, such as Conventions Nos 87, 98, 122 and 182, revealing the value of the integrated approach in examining Conventions. Finally, the speaker noted that Lebanon had ratified the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the UN Convention against Transnational Organized Crime, and the Protocol against the Smuggling of Migrants by Land, Sea and Air. She added that Lebanon had set up a multipartite National Facilitation Committee, with ILO participation, so as to implement projects aimed at protecting migrant female domestic workers.

124. The Government member of Morocco indicated that the choice of the subject of the General Survey was closely related to the current profound changes in the economy resulting from globalization, and that these economic changes had given rise to new forms of forced labour. Morocco had ratified Conventions Nos 29 and 105 and had adopted a new Labour Code. The provisions of these two Conventions had been transposed into the social legislation, which now provided for more severe penalties in case of recourse to forced labour by employers. Concerning child labour, a minimum age for admission to such employment had been fixed in the Labour Code and a certain flexibility had been introduced, in particular for fixed-term employment contracts, subject to the agreement of

all parties. These contracts were concluded between the employer and the worker and, in certain cases, covered all the socio-economic rights of workers, such as wages and working hours. Finally, the speaker said that his Government maintained a good collaboration with the Office in order to improve the legislation and to improve monitoring to ensure effective and comprehensive application of the provisions of the relevant legislation.

125. The Worker member of the United Kingdom highlighted that, in the bicentenary of the abolition of the transatlantic slave trade, millions remained victims of modern slavery. He pointed out that abolition had not been won solely by figures such as William Wilberforce; the slaves themselves had collectively been agents of their own liberation. After recalling slave revolts of the past, he said that today, debt-bonded brick-kiln workers in South Asia – the *Kamaiya* in Nepal – were instrumental in organizing and fighting for their own freedom. The speaker stressed that freedom of association was a crucial weapon, given that most forced labour was exacted in the informal economy, where the rule of national law was absent. It was therefore vital to continue setting up trade unions in sectors where forced labour was prevalent, such as agriculture, domestic service, brick kilns, sex work and export processing zones, where excessive compulsory overtime was rife. However, the organization of trade unions in those sectors was persistently hindered by governments failing in their obligations to ensure the universal human right of freedom of association of all workers, without distinction. The speaker recalled that, in 2005, the Governing Body had approved an action plan to build a Global Alliance against Forced Labour that aimed to eradicate forced labour by 2015. Within that framework, the International Trade Union Confederation (ITUC), in cooperation with the ILO, established a workers' alliance against forced labour and trafficking. Furthermore, he called upon affiliated national centres and global union federations to help combat trafficking in children, a top priority for the Global March against Child Labour. The speaker welcomed the decision by the Government of the United Kingdom to ratify the new Council of Europe Convention on Action against Trafficking in Human Beings (Warsaw, 2005). Although trafficked workers might be moved across borders, the essential characteristics of trafficking were deception and coercion. As such, the fight against trafficking would not be won while trafficking and migration were being conflated by the public policy response. Trafficked workers needed to be treated as victims in need of protection, not illegal immigrants to be deported. Fundamental human rights at work could not depend on migration status. The speaker welcomed the change in his country's legislation to open an escape route for migrant domestic workers victims of abuse and urged the Government not to pursue proposals to reverse that change in law. He also expressed the hope that the Government would accept the authority of the ILO's supervisory bodies and their findings on prison labour. While he acknowledged that opportunities for education, training and skill-enhancing work for prisoners were keys to rehabilitation and social reintegration, such work had to be carried out within the criteria developed by the Committee of Experts. He hoped to explore the possibility of arranging pilot projects – along with the prison service, relevant trade unions, and companies in the Ethical Trading Initiative – to demonstrate that it was possible in practice to comply with those criteria. The speaker stressed his serious concern about the human rights of prisoners performing forced labour in state prisons, often political prisoners, including children, jailed for "re-education through labour". Whether or not they had been convicted through due process, such labour was always a breach of Convention No. 105, especially when it was imposed as a punishment for so-called political crimes. Finally, the speaker sought clarity and safeguards regarding recruitment into the armed services of young people and children under the age of 18, which was covered by Convention No. 182. He expressed his concern that young people, often with very limited literacy, were volunteering for armed service without a full and clear explanation of their complex contractual obligations, and were thus finding themselves unable to leave after reasonable notice.

Ratification prospects

126. The Employer and Worker members, as well as many other speakers, praised the high rate of ratification of the two Conventions on forced labour. The Worker members and some other speakers encouraged those few countries that had not yet done so to ratify them as soon as possible.

127. The Government member of the United States recalled that the Committee of Experts had noted in the General Survey that in the few cases in which Convention No. 29 had not been ratified, the reasons for non-ratification appeared to be linked to the exceptions from the scope of the Convention, rather than the fundamental right that it protected. For example, while her country had ratified Convention No. 105, consideration of Convention No. 29 had been suspended because of concerns about its impact on prison labour practices involving the private sector. She was gratified that the Committee of Experts had taken such a careful look at many of the important issues surrounding privatized prisons and privatized prison labour, taking into account the views and comments expressed previously by the members of the Committee.

128. The Worker member of the United States noted the statement by the Government of the United States concerning the ratification prospects for Convention No. 29, as reported in the General Survey, to the effect that it was not envisaged for the time being. The primary obstacle to ratification was cited as the continuing concern that the Convention could be construed and applied to limit the extent to which the private sector might be involved with prison labour. He urged his Government to review its current practices so as to ensure that they were in line with Convention No. 29 and to move more rapidly towards ratification of the Convention.

129. The Government member of the Republic of Korea indicated that the Republic of Korea had not ratified the forced labour Conventions in view of the existence of compulsory military service in the country, which was necessitated by the situation of conflict with the nuclear Democratic People's Republic of Korea. In her Government's view compulsory military service should remain beyond the purview of the forced labour Conventions. Her Government was fully aware of the importance of the fundamental Conventions and would make continued efforts to bring its law and practice more into line with international labour standards.

Final remarks

130. The Employer members said that Conventions Nos 29 and 105 retained their dynamic value in the face of threats to the free employment relationship. They both constituted essential pillars of economies based upon the free market. Many situations of forced labour occurred in countries in which the free market was not guaranteed. The General Survey referred to a wide variety of situations. On the one hand, it referred to the persistence of traditional forms of forced labour: slavery, debt bondage, vestiges of slavery and domestic work under conditions similar to slavery. Nevertheless, at the present time, the traditional forms of forced labour appeared to be related to illegal immigration and trafficking in persons. On the other hand, the General Survey referred to new trends, including the privatization and decentralization of prison management, the diversification of penal sanctions, unemployment benefits and the requirement to work overtime. It would have been desirable for the General Survey to have adopted a perspective, which graduated the respective significance of these new phenomena, placing them in their context so as not to create confusion with the traditional forms of forced labour. The risk was that the progress achieved in this respect would be obscured. The traditional forms of forced labour should not be trivialized. Conventions Nos 29 and 105 were fundamental and referred to the most serious and unacceptable forms of forced labour, for which reason their authority should

not be undermined. The discussions had revealed the existence of other important elements relating to new situations (extreme poverty, institutional weakness, disinformation and the lack of development through education, cultural elements and traditions), but there had also been interpretations that went beyond the spirit and letter of the Conventions. In conclusion, the Employer members welcomed the debate and the analysis contained in the General Survey, and they reaffirmed their willingness to strengthen rather than weaken the fundamental nature of Conventions Nos 29 and 105.

131. The Worker members wished to respond to some of the key points made during the discussion and to reiterate some of their essential concerns relating to the realities of the practice of forced labour in its current forms, with emphasis on the action needed to ensure compliance with the Conventions and to achieve social justice, poverty alleviation, human dignity and decent work. They emphasized that the new and emerging forms of forced labour, including prison labour, provisions relating to unemployment benefit and unpaid overtime, did not undermine the importance of Convention No. 29. However, the nature, scope and extent of modern practices of forced labour might require the updating of national and international law and practice. Certain more vulnerable groups, especially women, children, domestic workers, migrant workers and trafficked people, were in need of more proactive measures to ensure their protection. These included access to legal process and redress, which was often denied to such groups. Moreover, transnational approaches were essential to achieving social justice. In conclusion, the Worker members placed great value on the high rate of ratification of the forced labour Conventions and encouraged those few countries that had not yet done so to ratify them as soon as possible. They also urged all countries to adopt effective and specific measures to achieve the full implementation of the instruments in practice.

132. With respect to the General Survey on the Eradication of Forced Labour, the Chairperson of the Committee of Experts recalled that the Forced Labour Convention, 1930 (No. 29), and the Abolition of Forced Labour Convention, 1957 (No. 105), were the most widely ratified of all of the ILO instruments and that the Committee of Experts had noted considerable improvements in their application over the years. However, at the same time the General Survey had noted the continued existence of vestiges of slavery and other slavery-like practices which had still survived in certain countries. Sometimes these practices were connected with abductions in the context of armed conflicts. Sometimes they took the form of entrapment of people through debt bondage, trafficking in human beings for the purposes of sexual and labour exploitation. The speaker drew the attention of the Conference Committee to some emerging forms of forced labour which had become of greater prominence as a result of the combined effects of globalization, economic and social change, a widening gap between the rich and the poor, labour market changes and increased mobility of populations. Some of these new forms included various kinds of national service obligations, sentences of community work following a conviction in a court of law, imposition of overtime under menace of penalty, and issues concerning privatized prisons and prisoners who are hired to or placed at the disposal of private parties. The Committee of Experts had to consider multiple sources of information when assessing compliance with the forced labour Conventions and there were still a number of contemporary issues to be resolved. The speaker conveyed the hope of the Committee of Experts that the Survey would contribute to a better understanding and application of the Conventions in order for member States to ensure compliance with their provisions and also to assist the social partners to appreciate the scope of their application.

133. In a reply to a comment made during the discussion on the General Survey, suggesting that the Committee of Experts had inappropriately extended the scope of application of Convention No. 29, thereby weakening the purpose of the Convention, the Chairperson of the Committee of Experts explained that, in interpreting Conventions, their terms and purposes had to be taken into consideration, as they were living instruments which had not

to be interpreted solely in the context of the prevailing conditions which existed at the time of their adoption. The Conventions respecting forced labour protected fundamental rights. Convention No. 29 provided, in its Article 2, paragraph 1, a definition of forced labour. Although the gravity of the situations that violated these Conventions might vary, they all constituted breaches thereof. In cases in which practices of forced labour were alleged, it was necessary to consider all the circumstances, in particular the gravity and the magnitude of the exploitation being alleged, and the Committee would have to bear in mind the terms and purpose of the respective Conventions in all cases.

D. Report of the Joint ILO/UNESCO Committee of Experts on the Application of the Recommendations concerning Teaching Personnel (CEART)

134. The Employer members noted that the task of the Joint ILO/UNESCO Committee of Experts on the Application of the Recommendations concerning Teaching Personnel (CEART) was to examine reports on the application of the 1966 and 1997 Recommendations submitted by governments, by national organizations representing teachers and their employers, by the ILO and UNESCO and by relevant intergovernmental or non-governmental organizations. It then communicated its findings to the ILO and UNESCO so that they could take appropriate action. The report of the CEART was submitted by the Governing Body to the Conference Committee every three years, the last time in 2004. Its consideration was not covered by the mandate of the Conference Committee arising from article 7 of the Standing Orders of the Conference. The Committee took on the task of reviewing the report as an exceptional matter in view of the fundamental and increasing importance of the educational sector in improving productivity and labour standards generally. Without the best possible education and training, the future would be more compromised than ever.

135. The current members of the CEART were, with one exception, all from education professions. They offered intimate knowledge of the teaching profession and of the requirements for the provision of good education, but the composition was not necessarily ideal for an objective discussion based on the principles of impartiality and independence. With a view to strengthening the CEART and better connecting its work to the community and the private sector, the Employer members suggested that it diversify its composition to include experts from other segments of society, including from business. The importance of teachers to education could not be overstated. At the same time, other partners were crucial, particularly parents, who had the duty to ensure that their children received a good education. Moreover, employers had an important role to ensure social dialogue in education. Specifically, employers could contribute their first-hand knowledge of the qualifications needed when students progressed from school to training within the context of an employment relationship. Effective social dialogue in the broad sense involved participation in the decision-making process, but this should not be understood to mean that decisions could only be taken when teachers were in full agreement with them. In a democratic State, essential decisions, including those in the field of education, needed to be taken only by the freely elected parliamentary body, though social dialogue at a preliminary stage could obviously influence political decisions.

136. The report made recommendations on various issues addressed in the 1966 and 1997 Recommendations. Employer members agreed with most of these recommendations, particularly as regards teacher education, Education for All and HIV/AIDS and its impact on teaching. They had reservations on two points, regarding feminization and higher education. The report's statement (paragraph 55) that the feminization of the profession continued in most regions contrasted with other observations in paragraphs 91–93 that

described a more differentiated picture. The report's paragraph 92, for example, emphasized the positive effects of women teachers on the education of young women and girls. Where "feminization" existed, it could in fact reflect a particular interest or preference by women in the teaching profession for primary level education opportunities over secondary level openings or administrative positions. There was, moreover, no evidence that men were discriminated against in their access to the teaching profession. Second, the report (paragraphs 115–118) expressed concern over universities adopting business models over traditional academic approaches to higher education governance. Blame was attributed to globalization, with the consequence that collegiate management had been weakened, parallel to an intrusive administrative oversight affecting traditional notions of academic freedom and speech. The report thus appeared to find a contradiction between business and academic functions, which did not exist in reality. Certainly, universities should have independence, but they were not immune from economic realities. In conclusion, even if the available time for discussion of the CEART report limited the number of contributions from Conference committee members, this should not be taken as a sign of lack of interest. The report constituted an important basis for reviewing important elements of education, itself crucial to the future development of individuals and societies.

137. The Worker members observed that the report of the CEART's Ninth Session served as a reminder about the importance of applying the 1966 and 1997 Recommendations concerning teachers. Once again, it underlined the gap between declarations and realities. Everyone reaffirmed the essential role of education and training, with some government declarations going so far as to declare that only three words counted: "education, education, education". At the same time, teacher shortages were growing worse, marked by shortages which reached proportions of 30 per cent in some cases and regions, were aggravated by growing teacher migration towards other regions and more remunerative occupations, and even more accentuated by the ravages of HIV, often in the regions already worst affected by shortages. The lack of educators no doubt constituted the main obstacle to achieving Education for All. Unfortunately, as the report indicated, reversing the tendency was not immediately on the horizon. A principal reason was the slow but constant deterioration in teachers' conditions, marked by erosions in their levels of remuneration, job security and participation in education decision-making. A second reason was the rampant deprofessionalization of teaching, evidenced by the recruitment of untrained teachers and of temporary or part-time personnel. Finally, the contributions of women, particularly in secondary and higher education, continued to be under-recognized. It was not surprising that the teaching profession generally felt that its efforts went unrewarded.

138. The most worrying aspect of the report was the sense that little or no improvement was being made. The Eighth Session report three years ago estimated teacher shortages at 15 million, whereas the present report put the estimated shortage to reach the 2015 EFA goals for universal basic education at 18 million. The figure spoke for itself. The Worker members agreed with the Employer members on the crucial importance of education and training to the future of individuals and societies. Yet, the underlying causes of teacher shortages, related questions of education financing, as well as threats to academic freedom in higher education and participation of teachers in education decisions remained as major unresolved obstacles to accessible, quality education.

139. The representative of Education International (EI) recalled that the Conference Committee examined the CEART report once every three years, a report that established a balance sheet on the application of the two international Recommendations concerning teachers from pre-primary to university level. These texts constituted a very important reference base for the tens of millions of women and men teaching throughout the world. They were linked with the fundamental principles contained in the Conventions adopted by the ILO, whose application the Conference Committee was mandated to follow. The CEART was a unique joint body maintained by two specialized agencies of the UN system, which

teachers very much supported. Its Ninth Session was held in October–November 2006, 40 years after the adoption of the 1966 Recommendation and nearly a decade after the adoption of the 1997 Recommendation. In adopting these Recommendations, governments recognized the fundamental importance of highly qualified teachers, trained to prepare, in the best possible conditions, future workers and citizens who would be the guarantors of democratic societies. The CEART had focused the work of its Ninth Session on major issues that were central to the concerns of teachers and education in relation to the provisions of the two Recommendations: initial and continuing training of teachers; employment relationships, with a particular attention to the growing and worrying increase in unqualified contractual teachers; teacher salaries, including merit- or performance-related pay; effective teaching and learning conditions; social dialogue in education; and academic freedom, employment relationships, freedom of association and staff participation in decision-making in higher education, which were also deteriorating. The CEART's treatment of important transversal issues – EFA, teacher shortages and growing teacher migration, the impact of HIV/AIDS on teachers and teaching, and gender – were especially appreciated. EI supported the CEART's efforts to ensure promotion and respect for the 1966 and 1997 Recommendations' provisions, including through proposals to resolve problems that were raised in the framework of allegations submitted by teachers' organizations. On this point, EI considered it a positive step forward that for the first time a government had agreed to a CEART investigative mission, even if certain aspects of the mission remained to be settled.

140. EI had contributed a written report, participated in the special CEART sitting organized to hear the viewpoints of international organizations, noted that EI's observations were reflected in the report's recommendations, and endorsed these recommendations. Two points merited special attention. First, governments continued to underestimate and failed to take the necessary measures to deal with major teacher shortages caused by significant attrition from teaching, the HIV pandemic, and poor teacher salaries and conditions linked to insufficient teacher training, which no longer attracted individuals or pushed serving staff to leave education. Shortages in developed countries led them to recruit qualified teachers in developing countries, with serious consequences for quality education and hopes to achieve EFA goals in these countries by 2015. Second, as the report noted, the increasing importance of higher education and reforms at this level undertaken notably in Europe in the context of aggressive globalization, had led to growing job insecurity among academic and research staff and a decline in academic freedom and collegial self-government, despite the importance of such aspects to quality higher education.

141. In conclusion, although the CEART report had noted progress in almost all areas, it was clear that the 1966 and 1997 Recommendations were not appropriately applied or were largely ignored. Teachers' organizations at national and international level would continue to advocate for their application, by preparing promotional material and organizing numerous activities such as those for World Teachers Day on 5 October and an international conference on higher education to be held in November 2007. Governments and employers' organizations should also assume their responsibilities to help ensure application of the relevant provisions of the 1966 and 1997 Recommendations based on a real dialogue with teachers and their representative organizations.

142. A Worker member from France underlined the importance of the CEART report and the key role of education in national economic and social and in personal development. Teachers were increasingly asked to be society's firefighters, by dealing with social problems such as juvenile delinquency, at the same time that this responsibility was not recognized, and teachers encouraged to perform such tasks, particularly in terms of remuneration. The report had cited sources, which showed that teacher salaries had declined in real terms by half in the last 25 years of the twentieth century. How could qualified teachers be recruited with such low and declining salaries? A major problem was

the under-financing of public education, which led to increased engagement of private economic interests, notably multinational firms, such as Coca Cola, Nestlé and others, in furnishing school materials and non-nutritive food and drinks which carried their labels or otherwise served to advertise their products, often with risks for pupils' health from diseases such as diabetes, as stated by the World Health Organization. Concerning higher education, it had an essential role to play in sustainable development through scientific and technological progress, and therefore academic freedom, expressed through research and exchange of information, must be protected. However, the growing weight of private economic interests challenged free exchange of research via university publications, as research increasingly focused on product development linked to such interests, and moreover was subject to copyright restrictions, rather than on fundamental research of benefit to the general public. Collaboration between enterprises and higher education was not the problem, but in the process, universities should not be submissive to corporate interests, which violated academic freedom. The CEART report constituted a valuable survey of teachers' conditions, and it was gratifying that the ILO and UNESCO had submitted it for consideration to the Conference Committee.

143. The Government member of Kenya welcomed the report and commended the CEART for its work. The major issues summarized in the report reflected the worldwide concerns of teaching and education. Teaching was a noble profession that needed to be recognized. Teacher education and continuous professional development, employment relationships, remuneration, teaching and learning conditions, social dialogue, freedom of association and participatory management were not only humane concerns, but also prerequisites for motivation and enhanced productivity. It was important to strive for increased status of teachers for the sake of current and future generations. The sources cited in the report's Appendix I and the methodology of the CEART were a credible basis for the recommendations. Social dialogue in any sector constituted a pillar for stability and socio-economic development, and it was therefore encouraging that the CEART emphasized dialogue as the basis for a democratic culture in education. The Government of Kenya continually encouraged such dialogue with teacher unions, representatives of which participated in the Conference Committee as part of the national delegation, and his Government intended to further such dialogue. The recommendations contained in the CEART report offered a number of positive approaches to the issues. The sooner the recommendations were embraced by governments and by the ILO and UNESCO, the earlier the fruit of such efforts could be harvested.

E. Compliance with specific obligations

144. The Worker and Employer members recalled that the obligation to submit reports was a key element of the ILO supervisory system. In that regard, they believed that governments not submitting their reports benefited from an unjustified advantage compared to those that fulfilled that obligation, since they de facto eluded examination by the Committee on the Application of Standards. It was evident that failure to submit instruments to the competent authorities and to report fundamentally undermined the ratification and implementation process. When ILO instruments were not submitted to the competent authorities, ratification could not take place. Information reported for the purpose of General Surveys enabled the Committee of Experts to identify obstacles to application and to provide suggestions for overcoming them. Once a Convention had been ratified, first reports were crucial to enable the Committee of Experts to assess the level of application by the ratifying country and to make comments. Without reporting, the supervisory system as a whole could not function. The ILO should therefore establish contacts with the countries concerned that were not accredited to the Conference. In case of substantial inability of a government to report, the Office should provide technical assistance.

145. In examining individual cases relating to compliance by States with their obligations under or relating to international labour standards, the Committee applied the same working methods and criteria as last year.

146. In applying those methods, the Committee decided to invite all governments concerned by the comments in paragraphs 26 (failure to supply reports for the past two or more years on the application of ratified Conventions), 32 (failure to supply first reports on the application of ratified Conventions), 36 (failure to supply information in reply to comments made by the Committee of Experts), 72 (failure to submit instruments to the competent authorities), and 84 (failure to supply reports for the past five years on unratified Conventions and Recommendations) of the Committee of Experts' report to supply information to the Committee in a half-day sitting devoted to those cases.

Submission of Conventions, Protocols and Recommendations to the competent authorities

147. In accordance with its terms of reference, the Committee considered the manner in which effect was given to article 19, paragraphs 5–7, of the ILO Constitution. These provisions required member States within 12, or exceptionally 18, months of the closing of each session of the Conference to submit the instruments adopted at that session to the authority or authorities within whose competence the matter lies, for the enactment of legislation or other action, and to inform the Director-General of the ILO of the measures taken to that end, with particulars of the authority or authorities regarded as competent.

148. The Committee noted from the report of the Committee of Experts (paragraph 70) that considerable efforts to fulfil the obligation to submit had been made in certain States, namely: **Burundi, Guinea-Bissau, Malawi** and **Mali**.

149. In addition, the Committee was informed by various other States of measures taken to bring the instruments before the competent national authorities. It welcomed the progress achieved and expressed the hope that there would be further improvements in States that still experienced difficulties in complying with their obligations.

Failure to submit

150. The Committee noted with regret that no indication was available that steps had been taken in accordance with article 19 of the Constitution to submit the instruments adopted by the Conference at the last seven sessions at least (from the 86th to the 92nd Sessions) to the competent authorities, in the cases of **Haiti, Sierra Leone, Solomon Islands, Somalia, Turkmenistan** and **Uzbekistan**.

Supply of reports on ratified Conventions

151. In Part II of its report (Compliance with obligations), the Committee had considered the fulfilment by States of their obligation to report on the application of ratified Conventions. By the date of the 2006 meeting of the Committee of Experts, the percentage of reports received was 66.5 per cent, compared with 69 per cent for the 2005 meeting. Since then, further reports had been received, bringing the figure to 75.4 per cent (as compared with 78.3 per cent in June 2005, and 72.1 per cent in June 2004).

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

152. The Committee noted with regret that no reports on ratified Conventions had been supplied for the past two or more years by the following States: **Cambodia, Congo, Denmark** (Faeroe Islands)**, Iraq, Liberia, Saint Lucia, Togo, Turkmenistan, United Kingdom** (St Helena) and **Uzbekistan**.

153. The Committee also noted with regret that no first reports due on ratified Conventions had been supplied by the following countries: since 1992: **Liberia** (Convention No. 133); since 1995: **Armenia** (Convention No. 111), **Kyrgyzstan** (Convention No. 133); since 1996: **Armenia** (Conventions Nos 135, 151); since 1998: **Armenia** (Convention No. 174), **Equatorial Guinea** (Conventions Nos 68, 92); since 1999: **Turkmenistan** (Conventions Nos 29, 87, 98, 100, 105, 111); since 2001: **Armenia** (Convention No. 176); since 2002; **Gambia** (Conventions Nos 29, 105, 138), **Saint Kitts and Nevis** (Conventions Nos 87, 98), **Saint Lucia** (Conventions Nos 154, 158, 182); since 2003: **Dominica** (Convention No. 182), **Gambia** (Convention No. 182), **Iraq** (Conventions Nos 172, 182), **Serbia** (Conventions Nos 27, 113, 114); since 2004: **Antigua and Barbuda** (Conventions Nos 122, 131, 135, 142, 144, 150, 151, 154, 155, 158, 161, 182), **Dominica** (Conventions Nos 144, 169), **The former Yugoslav Republic of Macedonia** (Convention No. 182); and since 2005: **Albania** (Conventions Nos 174, 175, 176), **Antigua and Barbuda** (Convention No. 100), **Armenia** (Convention No. 17), **Liberia** (Conventions Nos 81, 144, 150, 182), **Serbia** (Conventions Nos 8, 16, 22, 23, 53, 56, 69, 73, 74), **The former Yugoslav Republic of Macedonia** (Convention No. 105), **Uganda** (Convention No. 138). It stressed the special importance of first reports on which the Committee of Experts based its first evaluation of compliance with ratified Conventions.

154. In this year's report, the Committee of Experts noted that 47 governments had not communicated replies to most or any of the observations and direct requests relating to Conventions on which reports were due for examination this year, involving a total of 415 cases (compared with 385 cases in December 2005). The Committee was informed that, since the meeting of the Committee of Experts, 19 of the governments concerned had sent replies, which would be examined by the Committee of Experts at its next session.

155. The Committee noted with regret that no information had yet been received regarding any or most of the observations and direct requests of the Committee of Experts to which replies were requested for the period ending 2006 from the following countries: **Albania, Belize, Bolivia, Cambodia, Comoros, Congo, Cyprus, Djibouti, Equatorial Guinea, France** (Martinique)**, Guinea, Haiti, Iraq, Jordan, Kyrgyzstan, Kiribati, Liberia, Malawi, Russian Federation, Saint Kitts and Nevis, San Marino, Saint Lucia, Sierra Leone, Tajikistan, Togo, Uganda, United Kingdom** (Anguilla, Montserrat, St Helena) and **Uzbekistan.**

156. The Committee noted the explanations provided by the governments of the following countries concerning difficulties encountered in discharging their obligations: **Bosnia and Herzegovina, Cambodia, Comoros, Denmark** (Faeroe Islands)**, Djibouti, France** (Martinique)**, Gambia, Russian Federation, San Marino, Serbia, Solomon Islands, Somalia, The former Yugoslav Republic of Macedonia, Togo** and **the United Kingdom** (Anguilla, Montserrat, St Helena).

157. The Committee stressed that the obligation to transmit reports was the basis of the supervisory system. It requested the Director-General to adopt all possible measures to improve the situation and solve the problems referred to above as quickly as possible. It expressed the hope that the subregional offices would give all due attention in their work in the field to standards-related issues and, in particular, to the fulfilment of standards-related

obligations. The Committee also bore in mind the reporting arrangements approved by the Governing Body in November 1993, which came into operation from 1996, and the modification of these procedures adopted in March 2002, which came into force in 2003.

Supply of reports on unratified Conventions and Recommendations

158. The Committee noted that 11 of the 25 article 19 reports requested on the Forced Labour Convention, 1930 (No. 29), and the Abolition of Forced Labour Convention, 1957 (No. 105), had been received at the time of the Committee of Experts' meeting, and a further two since, making 52 per cent in all.

159. The Committee noted with regret that over the past five years none of the reports on unratified Conventions and Recommendations, requested under article 19 of the Constitution, had been supplied by: **Albania, Antigua and Barbuda, Armenia, Bosnia and Herzegovina, Cape Verde, Comoros, Congo, Democratic Republic of the Congo, Djibouti, Guinea, Kazakhstan, Kiribati, Kyrgyzstan, Liberia, Sao Tome and Principe, Sierra Leone, Solomon Islands, Somalia, Tajikistan, The former Yugoslav Republic of Macedonia, Togo, Turkmenistan, Uganda** and **Uzbekistan.**

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

160. Once again this year, the Committee did not have to apply the criterion: "the Government has failed during the past three years to indicate the representative organizations of employers and workers to which, in accordance with article 23(2) of the Constitution, copies of reports and information supplied to the ILO under articles 19 and 22 have been communicated".

Application of ratified Conventions

161. The Committee noted with particular interest the steps taken by a number of governments to ensure compliance with ratified Conventions. The Committee of Experts listed in paragraph 51 of its report new cases in which governments had made changes to their law and practice following comments it had made as to the degree of conformity of national legislation or practice with the provisions of a ratified Convention. There were 71 such cases, relating to 48 countries; 2,555 cases where the Committee has been led to express its satisfaction with progress achieved since the Committee of Experts began listing them in 1964. These results are tangible proof of the effectiveness of the supervisory system.

162. This year, the Committee of Experts listed in paragraph 54 of its report, cases in which measures ensuring better application of ratified Conventions had been noted with interest. It has noted 325 such instances in 113 countries.

163. At its present session, the Conference Committee was informed of other instances in which measures had recently been or were about to be taken by governments with a view to ensuring the implementation of ratified Conventions. While it was for the Committee of Experts to examine these measures, the present Committee welcomed them as fresh evidence of the efforts made by governments to comply with their international obligations and to act upon the comments of the supervisory bodies.

Specific indications

164. The Government members of **Albania, Armenia, Bosnia and Herzegovina, Cambodia, Comoros, Congo, Denmark** (Faeroe Islands)**, Djibouti, France** (Martinique)**, Gambia, Jordan, Kiribati, Russian Federation, San Marino, Serbia, Solomon Islands, Somalia, The former Yugoslav Republic of Macedonia, Togo** and **the United Kingdom** (Anguilla, Montserrat, St Helena) had promised to fulfil their reporting obligations as soon as possible.

Case of progress

165. In the case of **Spain (Convention No. 155) on occupational safety and health, 1981**, the Committee commended the Government for its comprehensive efforts to improve the occupational safety and health situation for all workers in the country and encouraged the Government to pursue the implementation of its national preventative safety and health policy in close cooperation with the social partners and the ILO. The Committee noted that this case was included in the list of countries as a case of progress that should serve as an example of good practice.

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

166. The Committee held a special sitting concerning the application by Myanmar of Convention No. 29, in conformity with the resolution adopted by the Conference in 2000. A full record of the sitting appears in Part Three of the report.

Special cases

167. The Committee considered it appropriate to draw the attention of the Conference to its discussion of the case mentioned in the following paragraph, a full record of which appears in Part Two of this report.

168. As regards the application by **Belarus of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)**, the Committee took note of the written and oral information provided by the Government representative, the Deputy Prime Minister, and the discussion that took place thereafter. The Committee recalled that it had been examining this case ever since the issuance of the report of the Commission of Inquiry and had, on each occasion, deplored the absence of any real concrete and tangible measures on the part of the Government to implement the Commission's recommendations. The Committee noted the statements made by the Government representative according to which the Government had been and was actively continuing its consultations with the ILO and the social partners, in respect of a draft Trade Union Law which would be discussed yet again in the Council for the Improvement of Legislation in the Social and Labour Sphere in July. It observed that the text of that draft had not been made available to the Committee. It further noted the detailed information provided by the Government on steps it had taken since this Committee's discussions of the case in June 2006. The Committee took due note of progress made in respect of some of the Commission of Inquiry's recommendations, particularly as regards the seat for the Belarus Congress of Democratic Trade Unions (CDTU) on the National Council on Labour and Social Issues (NCLSI), the disbandment of the Republican Registration Commission, the re-engagement of Oleg Dolbik – whose contract had not been renewed following his having provided testimony to the Commission of Inquiry – the publication of the Commission of Inquiry recommendations in the Government's official newspaper, and a few recent registrations of independent trade union organizations. Nevertheless, the Committee expressed its concern since these steps were

clearly insufficient and did not address the heart of the matter. The Committee recalled that what was at stake in this case was the imperative need for the Government to act without delay to ensure that all workers' and employers' organizations could function freely and without interference and obtain registration without previous authorization. The Committee noted the concerns raised relating to the draft Trade Union Law. Noting the statements made to the effect that the registration requirements remained quite complicated and that the requirements that had been criticized by the Commission of Inquiry and the Committee of Experts for many years were still necessary to obtain legal personality, the Committee urged the Government to vigorously pursue its consultations with all social partners in the country, and its cooperation with the ILO, with a view to making the legislative changes required to bring the law and practice into full conformity with the Convention and the Commission of Inquiry recommendations. It further urged the Government to take active steps to redress the damage suffered by workers' organizations that had been noted in the report of the Commission of Inquiry. Welcoming the Government's statement that it would continue to cooperate with the national social partners and that it had invited a high-level ILO mission immediately following the Conference, the Committee expressed the firm hope that significant progress in ensuring full respect for freedom of association would be made without any further delay. In order to appropriately monitor developments in this regard, the Committee recommended that the Governing Body reconsider this matter in November 2007. The Committee decided to include its conclusions in a special paragraph of its report.

Participation in the work of the Committee

169. The Committee wished to express its gratitude to the 63 governments, which had collaborated by providing information on the situation in their countries and participating in the discussion of their individual cases.

170. The Committee regretted that, despite the invitations, the governments of the following States failed to take part in the discussions concerning their countries' fulfilment of their constitutional obligations to report: **Bolivia, Cyprus, Democratic Republic of the Congo, Guinea, Haiti, Iraq, Liberia, Malawi, Uganda** and **Zimbabwe**. It decided to mention the cases of these States in the appropriate paragraphs of its report and to inform them in accordance with the usual practice.

171. The Employer and Worker members stated, in respect of the refusal by the **Government delegation of Zimbabwe** to appear before the Committee, that the situation created by the Government of Zimbabwe's position was highly regrettable, insulting to the Committee and to the ILO supervisory system as a whole. Only the previous day, and without precedent, the Committee had exceptionally accepted to reschedule the Government's presentation in spite of the fact that the latter had been aware since 15 May 2007 that it was on the list of countries likely to be called to appear before the Committee. In addition, the Employer and Worker members noted that the Government had communicated information in document D.10 that it had prepared for the discussion of the case. They recalled that the Committee could, as it had done with the case of Bosnia and Herzegovina in 2005, discuss the case on the basis of document D.10. The discussion would be reflected in Part II of the Committee's report and, in keeping with the practice followed in the case of Bosnia and Herzegovina, the case would also feature in a special paragraph in Part I of the Committee's report.

172. The Committee noted that the **Government of Zimbabwe** had indicated in a letter handed to the Director of the International Labour Standards Department on 7 June 2007 that it did not wish to appear before the Committee as it did not agree with its functioning. Information was appended to the letter which rejected the political manner in which the Committee had dealt with the issues concerning Zimbabwe in the past. All the above

information was reflected in document D.10 submitted to the Committee. The Committee deeply regretted that Zimbabwe did not participate in the discussion of individual cases on its application of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), although the Government delegation was accredited to the Conference. The Worker members as well as the Employer members expressed their indignation at the attitude of the Government of Zimbabwe in relation to both the Committee and the ILO. They considered that the attitude of the Government constituted flagrant disregard of the entire ILO supervisory machinery and indeed was very regrettable and should not be allowed to prevail without reprimand. It should be recalled that this case had been examined for several years by the ILO supervisory bodies. As this was a case of repeated failure to cooperate with the ILO supervisory system, they called for it to be included in a special paragraph of the Committee's report. The Chairperson of the Committee, while considering that there were enough elements to hold a discussion on this case, decided, in agreement with the two Vice-Chairpersons, to close the debate and to hold a discussion on this case during the plenary sitting of the Conference Committee.

173. The representative of the Secretary-General stated that, according to information she had received, the delegation of the Democratic Republic of the Congo would not attend the Conference before the conclusion of the Committee's work. The Worker members deplored the absence of the **Government delegation of the Democratic Republic of the Congo**, while recognizing that the situation in the country was difficult. The case was one of particular interest, selected for precise reasons: firstly, the footnote proposed by the Committee of Experts and, secondly, the particular nature of the Guarding of Machinery Convention, 1963 (No. 119). The Employer members stressed that ten years had passed since the Government advised the Committee of Experts that a new Labour Code would be drafted to comply with the provisions of the Convention, and yet no new legislation had been adopted. They urged the Government to seek technical assistance from the ILO so as to ensure compliance with the Convention in its national law and practice.

174. The Committee noted with regret that the governments of the States which were not represented at the Conference, namely: **Antigua and Barbuda, Belize, Cape Verde, Equatorial Guinea, Kyrgyzstan, Saint Lucia, Sierra Leone, Tajikistan, Turkmenistan** and **Uzbekistan** were unable to participate in the Committee's examination of the cases relating to them. It decided to mention these countries in the appropriate paragraphs of this report and to inform the governments, in accordance with the usual practice.

Geneva, 12 June 2007. *(Signed)* Mr Sérgio Paixão Pardo,
Chairperson.

Mr Jinno Nkhambule,
Reporter.