



Governing Body

316th Session, Geneva, 1–16 November 2012

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Institutional Section

INS

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DRAFT MINUTES

Institutional Section

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1. The Institutional Section met on Monday 5, and from Tuesday 13 to Thursday 15 November 2012. The Chairperson of the Governing Body, Mr de Robien (Government, France), chaired the Section. The Employer Vice-Chairperson of the Governing Body, Mr Funes de Rioja (Argentina), and the Worker Vice-Chairperson of the Governing Body, Mr Cortebeek (Belgium) were Employer and Worker spokespersons, respectively.

First item on the agenda

Declaration of loyalty by the Director-General

2. *Pursuant to article 1.4(a) of the Staff Regulations, Mr Guy Ryder, Director-General of the ILO, made and signed the prescribed declaration of loyalty.*
3. *The Employer Vice-Chairperson* congratulated the Director-General on his opening remarks and his vision. He welcomed the Director-General's plan to reform the governance of the Organization and his commitment to making the ILO relevant to employers and engaging with business. The autonomy of the group needed to be reinforced through this process. Times were challenging, and job creation being at the heart of the Office's work, a framework was needed to get the world back to work. The Office would have limited impact in creating such a framework and would lose relevance if it focused too much on criticizing austerity measures and structural reforms. Necessary reform and financial measures should be supported to tackle the unemployment crisis. The Office should not just be goalkeeper but should try other positions. It needed to be open to outside ideas, instead of simply confirming existing orthodox through in-house research. The Employers had worked together with the Director-General on several occasions, including when he was Director of CABINET and Executive Director of the Standards and Fundamental Principles and Rights at Work Sector. The Director-General had been given the challenge of rebuilding active tripartism. He could count on the support of the Employers' group as both employers and colleagues.
4. *The Worker Vice-Chairperson*, congratulating the Director-General, observed that times were difficult and that despite announcements of recovery, the situation was getting worse. Workers were suffering from the consequences of the crisis. Widespread redundancy was increasing the risk of a lost generation. Policies needed to be adopted to find a way out of the crisis. Social dialogue and international labour standards were fundamental in finding solutions. Governance had to be improved. He welcomed the positive initiatives that the Office had already taken to improve the Organization.
5. *The Chairperson of the Government group* congratulated the Director-General on his inauguration and said that the highly participatory electoral process was an indication of the relevance of the ILO, of its mandate and of the responsibilities bestowed upon the Director-General. It was committed to working closely with him. Governments must participate in the decision-making processes of the ILO to strengthen tripartism. The Director-General could count on the Governments for active engagement and contribution, which together with the Employers and Workers, constituted a fundamental pillar of the Organization. It looked forward to cooperating with the Chairperson and the two Vice-Chairpersons during the 316th Session of the Governing Body.

Second item on the agenda

Approval of the minutes of the 314th and 315th Sessions of the Governing Body (GB.316/INS/2)

Decision

- 6. *The Governing Body approved the minutes of its 314th and 315th Sessions, as amended.***

(GB.316/INS/2, paragraph 2.)

Third item on the agenda

Proposed operational plan for putting in place the MNE Declaration follow-up mechanism and promotional activities: Proposal to postpone discussion (GB.316/INS/3)

Decision

- 7. *The Governing Body decided:***

- (a) *to postpone until its 317th Session (March 2013) the review of the proposed operational plan for putting in place the MNE Declaration follow-up mechanism and the specified promotional activities on the basis of the recommendations submitted by the Ad Hoc Working Group at its 313th Session, in order to permit the Office to prepare the necessary proposal; and***
- (b) *to further suspend, until its 317th Session, the decision taken at its 258th Session (November 1993) to conduct surveys of the MNE Declaration every four years, in order to consider adoption of an operational plan for the follow-up mechanism.***

(GB.316/INS/2, paragraph 3.)

Fourth item on the agenda

Agenda of the International Labour Conference (GB.316/INS/4)

- 8. *The Chairperson*** said that the revised format of the document reflected the new approach being taken to adding items to the agenda of the Conference. However, it was obvious that the new approach still required some fine-tuning. He recalled that the majority of the

proposals were being discussed by the Governing Body for the first time and that two discussions were required before a proposed item could be added, except in the case of unanimous consent among members.

9. *The Employer Vice-Chairperson*, referring to the 2014 Conference agenda, said that the decision on human trafficking had been delayed until March 2013 to enable the views of the proposed Meeting of Experts on Forced Labour and Trafficking for Labour Exploitation (Geneva, 11–15 February 2013) to be included. Therefore, it could be envisaged as a single discussion at the 103rd Session (2014) of the Conference. His group supported the proposal on facilitating gradual transitions from the informal economy to the formal economy and agreed to it being placed on the agenda for a double discussion in 2014–15. However, its contents needed to be approached differently. The proposed meeting of experts on advancing fundamental principles and rights at work in the informal economy envisaged in the conclusions of the 2012 recurrent discussion should be organized early in 2013. His group also supported the inclusion of the proposals on a diverse and inclusive world of work, dispute settlement, small and medium-sized enterprises (SMEs), maximizing employment, technical cooperation, the public sector, the revision of employment policies and the transition from war to peace. It did not support the inclusion of decent work in global supply chains, including export processing zones (EPZs), gender-based violence in the world of work or the transition of the world of work towards a low carbon economy, as those required much more discussion before being included as Conference agenda items.
10. Regarding the draft decision in paragraph 10, his group did not agree with subparagraphs (a) or (b), as they did not enjoy the support of constituents. His group agreed with subparagraph (c).
11. Regarding the draft decision in paragraph 55, his group agreed with subparagraphs (a)(i) and (a)(ii), provided that the latter took into account his previous comments. His group did not agree with subparagraph (b).
12. Regarding the draft decision in paragraph 90, his group did not agree with subparagraphs (a)(i), (a)(ii) or (b).
13. He failed to understand why the draft decision in paragraph 98 had been included since informal discussions were to continue regardless. His group agreed with subparagraph (b), provided that it too was the subject of further consultations.
14. *The Worker Vice-Chairperson* said that his group agreed with subparagraph (b) of the draft decision in paragraph 10, as it reflected the discussions held on those items. For the 2014 Conference agenda, his group supported the proposal on supplementing the ILO's forced labour Conventions, as the Forced Labour Convention, 1930 (No. 29) contained a number of gaps that should be addressed. His group supported holding the proposed Meeting of Experts in February 2013, as that would provide a preliminary round of discussions on the instrument with a view to the Governing Body finalizing the decision in March 2013.
15. The Workers supported the proposal on facilitating a gradual transition from the informal economy to the formal economy and strongly endorsed paragraphs 28–30 and the points the Office had raised. An ILO instrument on that issue should aim to provide guidance to member States and social partners on how to achieve that transition. They supported a double discussion in 2014–15 as well as the holding of the proposed meeting of experts on advancing fundamental principles and rights at work in the informal economy in 2013.

16. Regarding the draft decision in paragraph 55, his group agreed with subparagraphs (a)(i) and (ii) and supported a double discussion for 2014–15, and a general discussion on global supply chains and EPZs for a future Conference.
17. For the 2015 Conference and beyond, his group supported the standard-setting proposal on gender-based violence in the world of work. While sexual harassment was covered by the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), it contained serious gaps.
18. The group also supported the proposal concerning a Convention (supplemented by a Recommendation) on the transition of the world of work towards a low carbon economy and therefore agreed with subparagraph (b) of the draft decision in paragraph 90.
19. Furthermore, the group supported the revision of the Employment (Transition from War to Peace) Recommendation, 1944 (No. 71) and the postponement of the consideration of the proposals on the resolution of labour disputes pending the outcome of the 2013 recurrent discussion on social dialogue.
20. The Workers also agreed with the draft decision in paragraph 98 as a whole. They invited the Office to continue developing new proposals to be submitted to the Governing Body on other topical issues, such as non-standard forms of employment.
21. *Speaking on behalf of the Africa group*, a Government representative of Kenya said that her group supported the topics for the three subsequent recurrent discussions: employment in 2014, social protection in 2015 and fundamental principles and rights at work in 2016. For the 2014 Conference, the Africa group supported the following agenda proposals in order of priority: facilitating gradual transitions from the informal economy to the formal economy; decent work in global supply chains, including EPZs, as a general discussion; and supplementing the ILO's forced labour Conventions.
22. For the 2015 Conference, the group supported the following agenda proposals in order of priority: the revision of Recommendation No. 71; gender-based violence in the world of work; and building a diverse and inclusive world of work.
23. Her group also supported the proposal on the resolution of labour disputes and the proposal concerning a Convention (supplemented by a Recommendation) on the transition of the world of work towards a low carbon economy. The Africa group therefore supported the draft decisions in paragraphs 10, 55, 90 and 98.
24. *Speaking on behalf of the group of industrialized market economy countries (IMEC)*, a Government representative of the United Kingdom said that his group had only received the document prepared for the informal tripartite consultations held in September three working days before the meeting where they were to present the governments' views: this was wholly unacceptable. Moreover, the views of the group had not been accurately represented in the document submitted to the Governing Body.
25. IMEC did not accept the assumption that standard-setting items would be included in every Conference agenda. In any event, the recommendations of the Standards Review Mechanism, once it became operational, should be taken into account when a standard-setting item was proposed for the agenda of the Conference. Furthermore, facilitating gradual transitions from the informal economy to the formal economy was not an appropriate subject for standard setting.

26. Noting that the Office expected the experts' meeting on forced labour in February to approve work on a new forced labour Convention, he expressed the concern shared by many IMEC governments over the process and indeed over whether another ILO Convention was appropriate.
27. According to paragraph 67 of the document, IMEC had supported a general discussion on gender-based violence. However, in its written comments to the Office, it had in fact indicated that the item could be considered for a general discussion with a wider focus on workplace violence.
28. The document could also include when the item was first raised, by whom, an indication of the support for the item and any link to other proposed items. In the interests of transparency, the Office should keep a written record of the decision-making process. In the future, regional coordinators should receive information at least five working days before consultations.
29. *A Government representative of the United Kingdom* suggested the deletion of subparagraph (a) of the draft decision in paragraph 10. Regarding subparagraph (a)(ii) of the draft decision in paragraph 55, his Government would like to delete the words "standard-setting" and replace them with "general discussion", as it did not consider facilitating gradual transitions from the informal economy to the formal economy to be a feasible standard-setting item. Regarding subparagraph (b) of the same paragraph, his Government would like to express its continued support for a general discussion on decent work in global supply chains, including EPZs.
30. If there was no clear support among all constituents for two of the items suggested for 2014, serious consideration should be given to preparing just one technical committee in addition to the recurrent discussion. Regarding the draft decision in paragraph 90, his Government saw the potential merits of the proposals on the revision of Recommendation No. 71, and building a diverse and inclusive world of work.
31. Gender-based violence in the world of work was perhaps inappropriate as a standard-setting item but could become part of a broader discussion on violence and harassment in the workplace, or part of a general discussion on a diverse and inclusive world of work. His Government believed that a Convention (supplemented by a Recommendation) on the transition of the world of work towards a low carbon economy was not feasible at that time.
32. *Speaking on behalf of Denmark, Finland, Iceland, Norway, Sweden and Switzerland*, a Government representative of Denmark said that his group supported the statement made by IMEC and shared its disappointment over the development of the discussion since March, and with the inaccurate reflection of its views in the document.
33. For the 2014 Conference agenda, these Governments supported a general discussion on decent work in global supply chains, including EPZs, but not the inclusion of either of the two standard-setting items. He only recognized the need for two technical committees: the recurrent discussion on employment and the general discussion on decent work in global supply chains. Therefore, he suggested the deletion of subparagraph (a) in the draft decision in paragraph 55.
34. *A Government representative of the United States* supported the IMEC statement and agreed that the document was not conducive to a clear discussion. Moreover, there were discrepancies between the status given to some of the items in the document and the support they had received from constituents.

35. Decent work in global supply chains, including EPZs, constituted two distinct issues warranting two separate tripartite discussions. The proposal on facilitating transitions from the informal to the formal economy was a good one, but not for standard setting.
36. Finally, his Government wished for an item not featured in the document to be considered with a view to inclusion in the agenda, namely long-term unemployment.
37. *A Government representative of China*, referring to the draft decision in paragraph 55, said that, in March 2013, the Governing Body should hold a further discussion on whether to include the proposal on supplementing the ILO's forced labour Conventions in the Conference agenda. In addition, his Government wished to see the proposal on facilitating gradual transitions from the informal economy to the formal economy included in the Conference agenda as a general discussion. It did not support the proposal on decent work in global supply chains.
38. *A Government representative of Canada* supported the IMEC statement. She expressed her disappointment over the limited selection of items for the 2014 Conference agenda.
39. Her Government believed that it would be premature to place the proposal on supplementing the ILO's forced labour Conventions on the agenda until the detailed analysis referred to in the conclusions of the 2012 recurrent discussion, and the Meeting of Experts, had taken place.
40. The proposal on facilitating gradual transitions from an informal economy to a formal economy was a relevant topic for a general discussion, not for standard setting.
41. The objectives identified in paragraph 28 could be met through a general discussion and the exchange of good practices. Canada had previously supported a general discussion on decent work in global supply chains and agreed with including EPZs in the discussion. Canada also supported further consideration of a general discussion on violence in the workplace, including gender-based violence; a discussion on building a diverse and inclusive world of work; and a discussion on the resolution of labour disputes.
42. Regarding the draft decision in paragraph 10, the Government supported both subparagraphs (a) and (b) but suggested the deletion of the words "a possible Recommendation" in both paragraphs in order not to predetermine the results of the recurrent discussions.
43. Regarding the draft decision in paragraph 55, Canada preferred to defer the selection of items for the 2014 Conference agenda to March 2013. Her Government invited the Office to present a new document at that time. She supported the draft decision in paragraph 98.
44. *A representative of the Government of Italy* endorsed the comments made on behalf of IMEC. She supported the draft decision in paragraph 10, but not the one in paragraph 55, as she thought it would be premature to draw up the proposed instruments. Regarding forced labour, the development of a new instrument should be conditional upon the indications provided by the group of experts, which had not yet met. She stressed that her country was firmly committed to combating trafficking in persons, and that national legislation had recently been amended to overcome that scourge more effectively. With regard to facilitating the transition from the informal economy to the formal economy, she said that the subject would be better addressed during a general discussion and the implementation of existing instruments. Concerning the draft decision in paragraph 90(a)(ii), Italy considered that the issue of gender-based violence should be addressed in the context of an instrument on all forms of violence at the workplace, including violence against women. Italy had recently signed the Council of Europe

Convention on preventing and combating violence against women and domestic violence. With regard to the process of setting the agenda of the Conference, Italy supported the process to reform the Conference. However, it considered that the result of the informal consultations should be made more widely known and should be better reflected in the document to be submitted by the Office to the following session of the Governing Body. Also, the timing of consultations should be more clearly established to facilitate government coordination.

45. *A representative of the Government of India* said that his country did not support the removal of the proposal on finance with a social purpose, and that it preferred social finance as it meant gearing financial policies and institutions towards decent work outcomes. Regarding the agenda of the 103rd Session (2014) of the Conference, India was in agreement with an item on facilitating gradual transitions from the informal economy to the formal economy, however consideration should be given to whether or not it should be a standard-setting item. Finally, India considered that gender equality should be at the heart of decent work, and consequently supported the inclusion of an item concerning gender-based violence in the world of work on the agenda of a future session of the Conference.
46. *A representative of the Government of Hungary* supported the statement made by the United Kingdom, on behalf of the IMEC group. Hungary had already expressed its support for the holding of a general discussion on decent work in global supply chains, including export processing zones, in the framework of the 103rd Session (2014) of the Conference. On the subject of new proposals for the agenda of the 103rd Session of the Conference (2014), Hungary thought that further discussions were needed. Furthermore, on the issue of facilitating gradual transitions from the informal economy to the formal economy, while that was a topical issue, she voiced concerns regarding it being discussed as a standard-setting item. Lastly, there was urgent need to further improve the process of setting the agenda of the Conference, but that was an issue that could be adequately discussed by the Working Party on the Functioning of the Governing Body and the International Labour Conference.
47. *A representative of the Director-General* (Deputy Director-General for Management and Reform), in response to the comments made with regard to the proposals contained in the document, said that he accepted the criticisms expressed, although he considered some of them to be a little too harsh. The meeting conducted in September had been very well attended, with a large number of governments present. The main purpose of the discussion had been to reduce the long list of possible agenda items and offer constituents a concise number of options that seemed to have a reasonable level of support from the three groups. The speaker said that it was a complex document and that the Office was open to suggestions to simplify it.
48. *A representative of the Director-General* (Director, International Labour Standards Department) welcomed the views of the tripartite constituents on the proposals contained in the document. She stressed that the constituents must now focus on finalizing the agenda for the 103rd Session (2014) of the Conference, and that the following March they could discuss at length agenda items for the 104th Session (2015) and beyond. She invited the tripartite constituents to submit suggestions for agenda items for sessions of the Conference and governments to be proactive and provide ideas. For the 103rd Session (2014) of the Conference, the Office had proposed an item on forced labour, which had considerable support from the tripartite constituents, although the IMEC group had reservations. She proposed that the constituents review the matter again at the March session of the Governing Body. With regard to transitions from the informal economy to the formal economy, the speaker said that there was also majority support by the tripartite constituents to include the proposal on the agenda as a standard-setting item. However, the IMEC group and other individual governments would prefer to see it as a general

discussion item. It would have to be decided whether the subject, for which there was broad support, should be included as a standard-setting item or as an item for general discussion. With respect to decent work in global supply chains, the Africa group, the Workers' group and a number of governments supported the proposal with a view to a general discussion; however the Employers' group did not support it.

49. *The Employer Vice-Chairperson* said that the discussion was a complex one. With regard to the 103rd Session (2014) of the Conference, the Employers' group had agreed to examine the inclusion of the item on forced labour as a possible standard-setting item. It also favoured including the item on facilitating gradual transitions from the informal economy to the formal economy as a standard-setting item. However, the Employers' group did not support the proposal on decent work in global supply chains, including export processing zones. With regard to the agenda of the 104th (2015) Session of the Conference, in view of the Conference reform currently under way he considered that it was not the right time to discuss that matter.
50. *The Worker Vice-Chairperson* said that, with respect to the 103rd Session (2014) of the Conference, the Workers' group had reached agreement with the Employers' group regarding the inclusion of items on forced labour and facilitating gradual transitions from the informal economy to the formal economy. The Africa group was also in favour of those two proposals. He asked whether it would be possible to organize the two meetings of experts envisaged in the conclusions of the 2012 recurrent discussion before the March 2013 session of the Governing Body. In any event, at least one of the two meetings of should be held before March 2013.
51. *A representative of the Government of Canada* asked whether the four draft decisions contained in the document would be dealt with.
52. *The Chairperson* said that, given the divergent points of view expressed, the decision on the draft decisions contained in the document would be postponed until the March session of the Governing Body.
53. *A representative of the Government of the Islamic Republic of Iran* said that in the previous ten years the Government group had only proposed one item for examination by the Conference. That was because governments were very diversified and encountered difficulties when it came to reaching common positions.
54. *The Chairperson* said that perhaps the Government group could hold a meeting to consider the matter of the formulation of joint proposals for the sessions of the Conference.

Decision

55. *The Governing Body deferred its decisions on this item until its 317th Session (March 2013).*

(GB.316/INS/4.)

Fifth item on the agenda

Matters arising out of the work of the 101st Session (2012) of the International Labour Conference

Follow-up to the adoption of the resolution concerning efforts to make social protection floors a national reality worldwide (GB.316/INS/5/1(&Corr.))

56. *The Employer spokesperson* said the Recommendation was one of the most important contributions to the ILO's work on social protection, as it recognized and addressed challenges faced by many member States. Questions had been raised about the nature of the instrument, but it was the results achieved through it that would determine its strength. The Recommendation did not aim to apply the same model to all countries. Instead, it tailored to national needs and possibilities. In light of the current financial and economic situation, any exercise on social security had to focus on efficiency and sustainability, affordability and feasibility. Given that the Recommendation promoted key elements to nurture sustainable enterprises and a favourable business environment, the employers' involvement in social protection floors (SPFs) was indispensable. As regards the cluster of proposed activities, employers and their organizations should play a more active part at the national level. In order to do so, the information member States transmitted to the ILO on key government actors and their involvement should be made available to them. The Bureau for Employers' Activities (ACT/EMP) should be closely involved in the activities proposed by the Office to promote the Recommendation. The Employers wished to be kept informed both of ILO collaboration with other partners (such as the United Nations, the G20 and the European Union) aimed at promoting implementation of the Recommendation, and of the mechanisms envisaged for engaging employer representatives and ACT/EMP in this process. His group wished to know how the set of indicators mentioned in paragraph 22 would be developed. He expressed support for this ambitious programme, subject to the availability of necessary resources, and emphasized the importance of the social partners' involvement in it. When answers to the group's questions were provided, they would support the point for decision on paragraph 22.
57. *The Worker spokesperson* found the paper to be very helpful and true to the Recommendation. She welcomed regular reporting and fully supported the proposed work plan. Given the consensus and goodwill on which the Recommendation had been based, the Office should prioritize activities aimed at obtaining the resources on which implementation depended. The Office should also consider providing advice on the long-term impact on poverty and equality that the current changes to social protection in Europe (i.e. in Greece, Italy and Spain) might have – their impact on pensions was of particular interest. This matter should be added to the workplan.
58. *Speaking on behalf of the Africa group*, a Government representative of Ghana thanked the Office for such a comprehensive document, which dealt with one of the ILO's ideals – universal social coverage. He applauded the promotion and advocacy undertaken among constituents and the public regarding the new Recommendation as well as the ILO's two-dimensional strategy for the extension of social security, adopted in 2011. In this context, he noted: (i) many African people lived in poverty and undernourishment; (ii) social protection coverage in Africa was minimal; 75 per cent of people worked in the informal economy, which yielded around 22 per cent of the GDP and in which social protection was almost non-existent; (iii) coverage in Africa would need to be extended to

the informal economy, along with parallel efforts to promote the formal economy and protect vulnerable groups. Affordability and sustainability should also be addressed. National capacities to raise revenue should be strengthened, for which the Africa group counted on ILO support and guidance. The Africa group supported the draft decision in paragraph 32.

59. *Speaking on behalf of GRULAC*, a representative of the Government of Colombia expressed the interest of her group in the subject and its commitment to it. As described in paragraph 13 of the document, various ministries and national bodies had a degree of responsibility for SPFs, and consequently the preparation of reports would involve consultations with several interlocutors. The ILO must take account of the inter-institutional nature of the issue when preparing follow-up activities in relation to the Recommendation. GRULAC considered that the Office proposals contained in paragraph 20 could prove more successful if they were also pursued directly in the regions and countries, if existing teaching institutions were involved in them, and if they took due account of national priorities and circumstances. The financial affordability and the assessment of the fiscal space referred to in paragraph 26(b)(ii) were not the only factors to lend credibility to the work of the ILO. An understanding of national priorities and attention to specific social circumstances were also important factors. GRULAC supported the ILO cooperation with various technical experts described in paragraph 26(c). With respect to the support that the ILO would provide to national dialogue processes on social protection, current structures should be recognized and strengthened. GRULAC reminded the Office that it could only promote the principles promulgated by other international bodies if it was clearly mandated to do so by the tripartite constituents. She asked for clarification on the reference to the Organisation for Economic Co-operation and Development (OECD) guidelines and principles on corruption prevention, as there were already existing instruments that had been adopted in the framework of the United Nations and that were discussed in specific forums. GRULAC agreed with the draft decision, with the reservations mentioned.
60. *Speaking on behalf of the European Union (EU) and its Member States*, a Government representative of Cyprus stated there was a clear link between economic development and social protection systems. Social protection lay at the heart of the European social model and the Recommendation was in line with fundamental EU values. SPFs should be designed and implemented according to national priorities and policies. The EU welcomed the framework described in paragraphs 11–31. It supported the decision in paragraph 32 and offered the following perspectives. The EU agreed that the Office needed to deliver credible financial advice and accurately estimate the cost of policy reforms. Monitoring and evaluation of social security systems was also invaluable for constituents and should continue to be combined with other relevant international organizations' efforts in this area. Effective social protection should always encourage economic activity and employment. The Office should help develop employment programmes, in particular for marginalized groups. It should further promote the participation of all civil and public actors in all stages of programming of its technical cooperation and assistance policies. Synergies between social protection and other areas should be promoted to address cross-cutting issues when designing social protection policies. Social protection should also be integrated in the post-2015 development agenda. The challenge was to improve coverage whilst ensuring the affordability, sustainability and adaptability of the systems. The EU welcomed the Office's commitment to collaborate with other international organizations in this respect.
61. *A Government representative of Zambia* endorsed the Africa group statement. He welcomed Office support to constituents, as described in paragraph 13 of the report. Zambia would rely on the Office for technical support and assistance in the context of its current social security reforms. He commended the Office's aspirations described in

paragraph 20. He noted with concern that the paper did not explicitly refer to immediate financial requirements linked to the implementation of the Recommendation, which was subject to resource availability. The Office should consider allocating resources to the activities described in paragraph 3. His Government fully supported the point for decision in paragraph 32.

62. *A representative of the Government of Mexico* was in favour of the strategy, given that it would not generate any additional costs. She welcomed the proposed actions, particularly the intensification of cooperation with relevant international and regional organizations. The Office could also consider the documents prepared by the International Labour Conference and the International Monetary Fund in the context of the Mexican presidency of the G20, as well as the actions taken in the framework of the United Nations Social Protection Floor Initiative, in order to avoid the duplication of effort. To ensure its viability, the SPF should not be seen as an alternative to social security institutions, but rather as part of a pluralistic system subject to national needs and resources.
63. *A Government representative of China* said that the resolution was of great significance as social protection was a fundamental human right and key in the fight against poverty and social exclusion. The Social Security Plan of Action adopted by the Governing Body at its 312th Session (November 2011) was excellent and comprehensive. Governments had to play a crucial role. In China, urban and rural residents had access to guaranteed full pension coverage, as well as basic medical coverage. The ILO had to play a lead role in social protection by using its resources and sharing its experience to establish objectives and practical suggestions in order to promote decent work.
64. *A Government representative of Argentina* endorsed the GRULAC statement; social protection policies and the fight against poverty and social exclusion were not incompatible with maintaining appropriate fiscal policy. The Social Protection Floor Initiative was launched in 2009 in reaction to the financial and economic crisis to ensure a minimum level of income and basic social services for workers. Worldwide minimum protection levels would help in achieving fairness, poverty reduction and the elimination of social exclusion. They would also be an effective economic tool during periods of economic difficulty. SPFs were a positive component of economic development. Using an integral approach, it was important to create floors that could be adapted to each country. Active employment promotion policies, together with training and skills development, should be implemented to help people get on the labour market and remain there. Argentina had taken specific steps towards these goals.
65. *A Government representative of Kenya* supported the Africa group statement. Priority should be given to an ILO programme that would enable constituents to hold national consultations to develop institutional and legislative frameworks for SPFs. In the African region, the focus should be on collaboration with academic institutions to implement programmes that were compatible with short-term training to improve skills. Document GB.316/INS/5/1 did not discuss the increasing need for cooperation and coordination with regional and subregional organizations. Labour market information systems should be established in order to enable the good practices guide for social security 2014–15 to be designed to capture different national and regional realities in Africa.
66. *A Government representative of India* agreed with the report. The Government had launched several targeted social security measures to promote gender equality, poverty and social exclusion elimination, and decent work for all. It was moving from a scheme-based to a rights-based approach with a view to aligning with the Social Security Plan of Action. India, as part of South–South cooperation, would support the endeavour of shaping effective affordable designs for SPFs in developing countries, with ILO guidance. He concluded by highlighting the financial implications of implementing SPFs.

- 67.** *A Government representative of El Salvador* aligned herself with the GRULAC statement. The global crisis had demonstrated that markets could not regulate themselves and that governments were principally responsible for a country's economy. With economic development as the main priority, programmes needed to be set up to provide basic SPFs that catered to different age groups. Not all countries were at the same stage of implementation or had the same resources. Keeping the worker in mind, full employment and decent work should drive policy development.
- 68.** *The representative of the Director-General* responded to the government interventions. The Social Protection Floors Recommendation, 2012 (No. 202) encouraged progressive implementation of a complete social protection floor. He recognized the efforts of India, China and El Salvador, particularly India's readiness to provide support for other countries via social dialogue. The Office could identify extra-budgetary resources for the implementation of country work. The Recommendation listed 18 principles for national social security schemes that reflected most of the constituents' concerns. He assured the Employers that their request for employers and workers to be more involved in national activities would be done in the most transparent way, and that the steps for establishing a SPF in a country were taken in a logical sequence. In response to the criticism from the Workers regarding the lack of ILO presence in countries subjected to austerity measures, he said that the international actuarial service had been in Greece and Cyprus.

Decision

69. The Governing Body requested the Director-General:

- (a) to take into account the guidance given by the Governing Body in pursuing the strategy for action on SPFs and to draw on it in preparing future programme and budget proposals and in developing resource mobilization initiatives;*
- (b) to communicate the resolution concerning efforts to make SPFs a national reality worldwide in the standard manner to the governments of member States and through them to the national employers' and workers' organizations.*

(GB.316/INS/5/1(&Corr.), paragraph 32.)

Follow-up to the adoption of the resolution concerning the youth employment crisis: A call for action (GB.316/INS/5/2)

- 70.** *The Employer spokesperson* said that the youth employment crisis was a critical and high priority issue. Consequently, the Employers' group supported the work done by the Office and the conclusions reached in June 2012 on the subject. However, she regretted that some important opportunities had been missed in those conclusions to focus on avenues for private-sector job creation. Regarding the paper's reference to a rights-based approach to youth employment, she said that at the 101st Session (2012) of the Conference no clear agreement had been reached as to the meaning of that concept. For the Employers' group, that meant that the Office should continue to support governments in erecting solid foundations of core employment rights reflecting national needs and priorities. Those foundations must be capable of underpinning the creation of jobs for young people by

employers, promote the sustainability of enterprises and create an enabling environment for enterprises to invest and create jobs. The Employers' group supported the draft decision.

71. *The Worker spokesperson* said the follow-up plan did not express sufficient urgency. Macroeconomic policies were crucial in determining levels of employment among young people. The Office had been focusing mainly on supply side measures, such as skills for youth, the transition from school to work, and entrepreneurship programmes. However, those were the least effective ways of addressing youth unemployment and underemployment in a climate of sluggish growth and lack of demand. Instead, the Office should address the demand side of the equation by promoting macroeconomic policies nationally and multilaterally. There should be more focus on youth employment in Decent Work Country Programmes (DWCPs). More macroeconomic expertise was urgently needed in ILO regional offices and decent work teams. The ILO should call for global coordinated action, especially by the world's leading economies. Its global advocacy work should be stepped up, promoting a multi-branched approach to youth employment. The industrial and investment policies of the developing countries offered scope of job creation. The rights of young people should be emphasized by promoting collective bargaining and social protection, combating abuses in apprenticeships and ensuring proper labour inspection. The elements of the follow-up plan, given in the Appendix to document GB.316/INS/5/2, should be part of country programmes on youth employment. The Office should promote minimum wage setting, through the Minimum Wage Fixing Convention, 1970 (No. 131) in countries where it was lacking, in order to prevent abusive pay practices and improve the purchasing power of young workers. He supported the plans set out in paragraphs 14 and 21 of GB.316/INS/5/2, subject to the adoption of a macroeconomic approach. Capacity-building programmes for workers' organizations should fully involve the Bureaux for Employers' and Workers' Activities (ACT/EMP and ACTRAV). He agreed that the Youth Employment Programme should be aligned with overall employment policy development, as proposed in paragraph 34(a). The specialist members of the working groups in the regions, referred to in paragraph 34(c), should include macroeconomic experts. The field staff members mentioned in paragraph 34(d) should be familiar with macroeconomic policy and well versed in the rights of young workers. He supported the draft decision in paragraph 37.
72. *Speaking on behalf of the Africa group*, a Government representative of Kenya supported the draft decision. The "call for action" should include high-level meetings with Heads of State in order to scale up national strategies on youth employment. National, subregional and regional conferences should be organized on the subject. She welcomed the inclusion in the follow-up plan of knowledge development and dissemination. In the African region especially, comparative data was lacking. Reviews of youth employment policies should take place early in the first biennium of the follow-up plan, to enable member States to develop evidence-based policies. She thanked the Swedish International Development Agency for its support for reviews of country policies. Technical assistance should take place in a context of national, regional and subregional action, and within time-bound master plans. It had not been effective in the past outside such a framework. She endorsed the preparation of a programme document for youth employment initiatives at regional and national level, as well as country-level partnerships for decent work for young people in rural areas, where there should be integrated packages of entrepreneurship, cooperative and social enterprise programmes, incorporating training, mentoring and access to credit and to markets. She also supported the strategy for mobilizing extra-budgetary resources for the plan and for DWCPs. The interdepartmental working group proposed at headquarters should be replicated in the field, in place of youth coordinators and focal points. She suggested a further heading for inclusion in the follow-up plan: "Integration of employment, sectoral and economic policies". Consultative meetings could be held between ministers of labour, finance and planning, to ensure government support for

decent work programmes and initiatives for young people. She welcomed the role of the Office in coordinating the United Nations inter-agency network on youth employment. The Office should seek to have the ILO assume global leadership in youth employment.

73. *Speaking on behalf of GRULAC*, a Government representative of Colombia supported the draft decision. The crisis in youth employment could only be tackled through macroeconomic policies on employability, the labour market, and entrepreneurship. It was necessary to identify good practice, but comparisons between different regions and countries could be unreliable. She welcomed the plans outlined in paragraph 34(c) and (d). Human resources policies should enable young people to move readily between types and stages of education, increase the relevance of training to employment, recognize non-formal qualifications and promote lifelong learning.
74. *Speaking on behalf of the Asia and the Pacific Group (ASPAG)*, a Government representative of the Islamic Republic of Iran pointed out that half the world's unemployed youth were in the Asia and the Pacific region. The Office should mobilize all the resources needed to implement the plan, and should take the leading role in promoting the "call for action". ASPAG favoured a multi-pronged approach to youth employment, to reflect the diversity of local circumstances. He acknowledged the continuing efforts of the ILO Regional Office for Asia and the Pacific, and of the Asia-Pacific youth employment network. ASPAG especially favoured the immediate establishment of a regional working group, composed of relevant specialists from field offices, to develop a workplan, with the support of the regional youth coordinator. He hoped donor countries would provide extra-budgetary assistance to support knowledge sharing. ASPAG strongly supported the ILO in forging ongoing partnerships and conducting advocacy within the multilateral system. The ILO should also explore opportunities for extending South-South and triangular cooperation to include youth employment. He supported the draft decision.
75. *Speaking on behalf of the EU, its Member States and associated States*, a Government representative of Cyprus pointed out that worldwide, there were 75 million unemployed young people, 4 million more than in 2007. Moreover, over 200 million of those in work were earning less than the equivalent of US\$2 a day. Young people must be helped into sustainable employment through employment-friendly fiscal policies, entrepreneurship, a favourable business environment, and education and training in response to the needs of the labour market. The proposals in the plan for knowledge development and dissemination would help to foster good practice. The elements proposed in the appendix to document GB.316/INS/5/2 should be prioritized and timed. The work of the Office should complement the work done in the regions and by the international organizations. She welcomed the proposals for technical assistance and capacity building at the country level, and the proposed six areas of technical support outlined in paragraph 24. Programmes for youth employment should be tested and evaluated by the Office, so that future work could be built upon existing experience and best practice. The ILO should play the role of global leader in tackling youth unemployment. It should promote coherence among a multiplicity of initiatives and it should also endeavour to involve young people themselves in the plan, through engaging with representative regional and national organizations of young people. The scope of the measures set out in paragraph 34 of GB.316/INS/5/2 was ambitious. Noting that extra-budgetary resources would have to be mobilized in order to implement the plan, she asked how much of the plan was new and how the Office would set priorities. She supported the draft decision.
76. *A Government representative of Zambia* endorsed the Africa group statement. The Office should play a leading role in inter-agency networks on skills development, gender and green jobs, in partnership with the United Nations and Bretton Woods agencies. He called for the establishment of a working group for the Africa region, similar to the one set up by the Regional Office for Latin America and the Caribbean. He supported the draft decision.

77. *A Government representative of El Salvador* emphasized that failure to tackle youth unemployment would lead to social fragmentation. Many of the world's unemployed people were faced with the choice of either working in the informal sector or migrating, with the consequent negative impact on family life. She mentioned examples of successful Government-backed youth employment projects in Chile, Argentina, Brazil and El Salvador. The ILO should take advantage of its leadership role to promote initiatives at national and regional levels and internationally, with the support of the World Bank, the United Nations Conference on Trade and Development and other international programmes.
78. *A Government representative of China* endorsed the ASPAG statement. He hoped the follow-up plan would be fully implemented and adequately funded from the budget. He suggested that the Office provide technical assistance for developing skills for green jobs for young people.
79. *A Government representative of India* said that the youth employment crisis posed particular challenges for developing countries, with their large youth populations, and countries with a large informal sector and rural population. It was essential to redouble efforts to create youth employment by adopting appropriate macroeconomic policies and strategies, and he fully supported the Office's activities at international, regional and national level to tackle the crisis. He expressed specific support for the activities outlined in paragraph 24 of the document, adding that technical assistance and capacity-building at country level should focus more on youth employment, while monitoring and evaluation should be left to national institutions, thereby avoiding duplication. He further agreed with the proposals in paragraphs 26 to 31, in which respect partnerships involving other United Nations agencies and regional institutions and South–South and triangular cooperation should be encouraged, and paragraphs 34 to 36. Any call for action on the crisis should be in line with the ILO Declaration on Social Justice for a Fair Globalization. Innovative financing through regular budget resources would give the desired results. He supported the draft decision contained in paragraph 37 of the document.
80. *The representative of the Director-General* welcomed constituents' endorsement of and guidance on the proposed follow-up plan, which would be followed in its implementation. The Programme and Budget proposals for 2014–15 highlighted jobs and skills for youth as an area of critical importance, reflecting the sense of urgency expressed by countries. The ILO currently had a youth employment portfolio of around US\$140 million worldwide and hoped to mobilize additional resources. A donor meeting was planned for 2013. In preparation, the directors of regional offices had been asked to formulate lucid regional strategies or improve their existing strategies. Based on solid research, the Office had developed a clear message on employment in a macroeconomic framework, but wider dissemination was needed. Governments were being encouraged to translate the priority they attached to youth employment into resource allocations. The Office was also continuing to conduct research in various areas, including industrial policy, and to address issues relating to workers' rights. Work on data and statistics would remain a priority.

Decision

81. *The Governing Body requested the Director-General to take full account of the 2012 ILC conclusions when preparing and implementing the Programme and Budget for 2014–15 and the two following biennia and when allocating such other resources as may be available during the current biennium, and to facilitate the mobilization of extra-budgetary resources for the implementation of the follow-up plan.*

(GB.316/INS/5/2, paragraph 37.)

Follow-up to the adoption of the resolution concerning the recurrent discussion on fundamental principles and rights at work: Plan of action

(GB.316/INS/5/3)

82. *The Worker spokesperson* highlighted the importance of this issue, which related not only to labour rights but also to the role of the ILO. The adoption of austerity measures, sometimes to the detriment of workers' rights, in response to the global economic crisis was a matter of great concern. Resolving the crisis and promoting social justice must be based on respect for the rights accorded to workers in ILO Conventions, particularly the rights to freedom of association and collective bargaining, even in the face of increased social tensions. Formulating and implementing the plan of action should be closely linked to consideration of the seven areas of critical importance identified in the Programme and Budget proposals for 2014–15. It was particularly important to have a specific mechanism for follow-up and evaluating the implementation of the plan of action. The plan of action must not fall short of the conclusions adopted by the International Labour Conference at its 101st Session. He also commented on various aspects of the plan of action, including ratification of Conventions and related numerical targets, technical assistance, how the Office could work directly with countries to promote ratification, measuring progress in implementing DWCPs, partnerships with universities, the annual review discussion of countries that had yet to ratify one or more fundamental Conventions, tripartite expert meetings, strengthening the knowledge base on fundamental principles and rights at work, the role of the social partners, and tripartite and other partnerships. ACTRAV and ACT/EMP should be equally involved in the plan of action, which should be funded from the regular budget.
83. *The Employer spokesperson* underlined the importance of fundamental principles and rights at work, which had led his group to propose it as a key area in the Programme and Budget proposals for 2014–15, on which the plan of action would largely depend. Funding for that area should be sought both from the regular budget and from increased donor support. Equal attention should be given to promoting each of the four categories of fundamental principles and rights in all activities. With regard to DWCPs, he emphasized that priorities should be set by constituents according to their needs: promoting fundamental principles and rights should not be a mandatory component of every DWCP. Querying certain aspects of the plan of action, particularly targets for ratification of Conventions, he expressed great concern at the conflation of non-standard forms of employment and the informal economy, which the Employers strongly rejected. ILO technical cooperation on fundamental principles and rights at work must focus on the informal economy, where workers were not effectively covered by legislation. In strengthening the role of the social partners, ACTRAV and ACT/EMP must be sufficiently well funded and fully involved in the Office's capacity-building work.
84. *Speaking on behalf of the Africa group*, a Government representative of Kenya proposed that an integrated toolkit on fundamental principles and rights at work should be developed, along with localized materials to promote a culture of compliance with relevant legislation. The plan of action, proposed activities and expected outcomes should be harmonized to ensure consistency. Some aspects of the plan of action relating to capacity building should be further developed. The unique challenges of the informal sector should be addressed through technical cooperation and other activities to establish mechanisms other than traditional collective bargaining. Integrating fundamental principles and rights at work into DWCPs should be aligned with national budget cycles. To develop an in-depth knowledge base on fundamental principles and rights, Africa would need support to

establish labour market information systems. She supported the draft decision in paragraph 37 of the document.

85. *Speaking on behalf of GRULAC*, a Government representative of Colombia reiterated her region's commitment to promoting all four categories of fundamental principles and rights at work. The plan of action should lead to progress and results. Targets for ratification of Conventions should be accompanied by information on technical cooperation to address challenges, taking into account countries' specific circumstances. Technical assistance for labour inspection and training for collective bargaining were of particular importance. She expressed special concern regarding the proposed study of labour provisions in bilateral and regional trade agreements, in particular which organizations had a mandate in that area or might be involved in such studies, how such studies might be used, the need to ensure geographical balance, and how the work would be funded. She therefore did not support activity VI(2)(ii) of the plan of action.
86. *Speaking on behalf of ASPAG*, a Government representative of the Islamic Republic of Iran acknowledged the role of the fundamental Conventions in promoting fundamental principles and rights at work, but stressed that ratification was a sovereign decision for member States and that circumstances differed among countries. He questioned the usefulness of specific numerical targets for ratification. What mattered was implementation, and he asked the ILO to support member States in that regard. Fundamental principles and rights at work should be integrated into all DWCPs, and government staff should receive adequate training in applying them. With regard to human trafficking and related issues, efforts should be devoted to applying existing standards before creating new ones, and appropriate technical assistance should be provided to countries in need. He welcomed innovative statistical approaches to tackling discrimination in employment. While encouraging international partnerships and policy coherence on fundamental principles and rights at work, he cautioned against duplication among the various United Nations human rights supervisory mechanisms. He supported the draft decision.
87. *Speaking on behalf of the EU and its Member States*, a Government representative of Cyprus said that the acceding country Croatia, the candidate countries of The former Yugoslav Republic of Macedonia, Montenegro, Iceland and Serbia, the countries of the stabilization and association process and potential candidates, Albania and Bosnia and Herzegovina, as well as Ukraine, the Republic of Moldova and Armenia, aligned themselves with this statement. The EU and its Member States were fully engaged in the promotion and protection of human rights, and called on all States to ratify and actively implement the fundamental ILO Conventions as part of the EU action plan on human rights. They commended the knowledge-based approach of the action plan, among other aspects. Technical cooperation projects aimed at strengthening labour capacity, enforcement, labour inspection and police would raise awareness of the long-term value of opening economies and societies. Financial needs were not detailed in the plan, nor was any specific action to ensure that sufficient resources were allocated to the functioning of the ILO's supervisory bodies, as called on by point 19(b) of the resolution. More detailed information on the need for extra-budgetary resources was also missing. Ongoing evaluation of the effectiveness of different activities should be regularly communicated to the Governing Body. They noted with interest the proposal in paragraph 14 and welcomed paragraphs 26–27. They believed that the growing inclusion of labour-related provisions in trade agreements reflected the need to ensure that trade contributed to the promotion of decent work and sustainable development.

88. A *Government representative of China* endorsed the ASPAG statement. Due to the differences in economic development, history and culture of the member States, principles and fundamental rights varied from one country to another. The ILO should concentrate on a consultation–cooperation technique that addressed the real needs of its member States. He did not support paragraph 14 because it appeared to be establishing a surveillance mechanism. ASPAG required clarification on this point.
89. A *Government representative of Zambia* endorsed the Africa group statement. She commended the action plan for seeking to develop studies to promote freedom of association in vulnerable sectors. The informal economy needed to be taken into consideration. She agreed with paragraph 6 and was encouraged that pilot studies would target disadvantaged people who typically lacked social protection. She supported the draft decision.
90. A *Government representative of Mexico* stated that it was important that the aim to facilitate an increase in the progress noted in the implementation of fundamental Conventions be linked to the ILO Declaration on Fundamental Principles and Rights at Work. She recommended that the instruments not be included in the plan of ratification for the eight fundamental Conventions since those on governance had their own plan of action. Mexico disagreed with the sharing of experiences because of the possibility of this duplicating the work of the Committee on the Application of Standards.
91. A *Government representative of Switzerland* endorsed the EU statement. A fair, globalized economy required the implementation of fundamental principles and rights at work as well as the eight fundamental Conventions. Because Switzerland wanted to ensure that its economic liberalization policy benefited the greatest possible number, was supported by the people and did not jeopardize social peace, it was coupled with a social policy of decent work and respect for workers' rights. The opening of its markets had, in the long term, a positive effect on growth and well-being. However, non-regulated liberalization could have negative effects, which was why the Government supported the plan of action presented in the document. The strategy was based around a strengthened ILO, implementation and promotion of the ILO principles and standards in Switzerland and promotion of decent work worldwide. The Government supported the draft decision, with the same requests as the EU.
92. A *Government representative of Egypt* agreed with paragraph 6 and the universal ratification of fundamental Conventions, saying that it was in line with the Director-General's statement that 2015 should be the year of universal ratification.
93. A *Government representative of India* strongly supported the statements by ASPAG and China. The Government was in favour of progressively improving legislation and procedural guarantees in keeping with socio-economic realities. It agreed with paragraph 4 but felt that labour issues should be dealt with separately from human rights. It took note of paragraph 10, stating that the ratification status of different countries depended on their national circumstances. The existing supervisory mechanism was sufficient, therefore it did not support paragraph 14. Regarding paragraphs 16–19, the results of research, statistics and knowledge-base studies should not be used for comparison between ILO member States, because of the diverse socio-economic conditions of countries. In reference to paragraph 22, the Government believed that international cooperation could lead to universal ratification of core ILO Conventions. It encouraged ILO technical cooperation and assistance initiatives which took into account the different socio-economic conditions among constituents. Poverty eradication should be the main objective, particularly in developing countries.

94. *A Government representative of Australia* supported the ASPAG statement and the plan of action to give effect to the outcomes of the Office's recurrent discussion on fundamental principles. She saw merit in sharing advice on common experiences, particularly in relation to technical issues related to the application of standards. The 2014–15 budget should take this action plan into consideration.
95. *A representative of the Director-General* (Officer-in-Charge of the Standards and Fundamental Principles and Rights at Work Sector) stated that the Office had reviewed achievements over the past four years and looked at what ratifications were possible. They had set realistic, achievable targets based on the information available from the Committee of Experts, the Committee on Freedom of Association, and other supervisory mechanisms. The Office was trying to bring together information on action taken by member States related to the four categories of principles. Regarding paragraph 14, the recommendation would benefit countries from a more pragmatic programmatic perspective. Paragraph 18 should not be amended. In paragraphs 34 and 35, resources would be assessed during the Programme and Budget proposals for 2014–15, and at that point it would be clear what resources would have to come from extra-budgetary resources. She concluded by underlining that research into labour standards in trade agreements had been addressed in the last two biennia so this was not a new topic.
96. The Workers' group had proposed to add in the draft decision after the word "implementation", the words "and ensure the monitoring and evaluation of such implementation by the Governing Body". In the interests of consensus, the group did not pursue this amendment.

Decision

97. *The Governing Body requested the Director-General to take full account of this plan of action and the discussion thereof in the Governing Body, and to allocate the necessary resources for its implementation.*

(GB.316/INS/5/3, paragraph 37.)

Follow-up to the decision adopted by the International Labour Conference on certain matters arising out of the report of the Committee on the Application of Standards – Summary report concerning the informal tripartite consultations held on 19 September 2012 (GB.316/INS/5/4)

98. *The Employer Vice-Chairperson* read out the following statement intended to clarify the Employers' position and not to open a debate on the substance of the issue.
1. Thank you Chair. Our spokesman, Chris Syder, is not able to be with us today due to business commitments back in the United Kingdom. On behalf of the Employers' group, I will present his intervention which has been fully considered and endorsed by our group so there is a formal record of our understanding. We recognize this will need to be discussed at a later date in further informal consultations.

2. Basically, there are three issues that need to be addressed: the “list of cases” for the 2013 meeting of the Committee on the Application of Standards (CAS), which we are 100 per cent committed to; the mandate of the experts, which we wish to be clarified so there is no misunderstanding in the Governing Body, the International Labour Conference (ILC) or the outside world and so we are able to correctly supervise Convention No. 87 cases in the CAS; and a way forward concerning the right to strike and Convention No. 87.
3. **First**, the “list of cases”.
4. Through our spokesperson the Employers explained in the September informal discussions that the Employers have made proposals to the Workers.
5. Further to constructive dialogue with the Workers at this Governing Body session, there is a commitment on both sides to finalize this matter so the Governments and the outside world have the comfort of knowing a mechanism will be agreed so a list of cases is no longer a concern.

Informal discussions at this Governing Body session

6. Following the informal tripartite discussions held in September, we understood that there would be an oral report provided to the Governing Body. No fixed arrangements were made for further informal consultations. We were not expecting a written report.
7. We were rather surprised to receive notification on 2 and 5 November of further informal discussions being scheduled for Friday 9 November. The Employers will object to any assertion that the 9 November informal discussions did not take place because the Employers did not wish to attend. The timing of 9 November clashes with traditional Employer group meetings and the very short notice did not allow us to reconstitute the Employer members who participated in the informal discussions in September.
8. The proposed informal discussions were regrettably flawed from the outset due to poor tripartite communications and a lack of planning. This should not be attributed in any way to the Employers.
9. **Second**, the mandate of the experts and the proposed outline paper. The Employers do not need a further information document on the mandate of the experts; however, we recognize that some Governments may need further information to help them decide upon the important issue of the experts’ mandate. We also wish to raise an important matter.
10. At the September informal consultations, the Employers formally requested that the following question be answered:

Whether the Governing Body has ever decided to amend the stated terms of reference of the Committee of Experts to expressly include the interpretation of international labour standards and, if it had not, whether the Governing Body intended to change those terms of reference.
11. The answer received from the Deputy Legal Adviser to our question is, and I quote from paragraph 11 of the Office paper:

... without prejudice to the scope and timing of the further Office paper needed, the Governing Body was a constitutional organ that operated within the constitutional order, including in respect of relevant decisions of the Conference and of article 37 of the Constitution referenced in the discussion and in the papers available in the meeting. Any decision of the Governing Body or the Conference concerning the Committee of Experts’ mandate would be understood consistently with that constitutional order.
12. The Deputy Legal Adviser’s answer is opaque and it is unclear to us. It is not the answer we received in the September informal consultations.
13. We request a clear answer from the legal department.
14. Nevertheless, the Employers have a settled and unanimous view of the experts’ mandate. We are satisfied that the information already supplied by the Office and our own research confirms the experts’ constitutionally agreed mandate.

15. Our view is:

- The mandate of the Committee of Experts was defined by means of an ILO resolution adopted during the ILC in 1926, and was further confirmed by the Governing Body in 1947.
 - Since 1947, there have been no further adjustments made by the Conference or by the Governing Body to the mandate of the experts, which the Office confirmed in paragraph 31 of its information paper in advance of the informal consultations in September.
 - Even if a decision of the Governing Body or the ILC had amended the experts' mandate to interpret Conventions, this would not be valid as it would be in open violation of article 37 of the ILO Constitution, which gives the exclusive authority to deal with any question or dispute relating to the interpretation of the ILO Constitution or ILO Conventions to the International Court of Justice (ICJ).
 - Thus, the authority to interpret ILO Conventions is vested with the ICJ, in accordance with the ILO Constitution.
 - In other words, if the Governing Body gave the mandate to interpret Conventions to the experts, this would be invalid, as the Governing Body cannot ask the experts to do something as it lacks the "legal capacity" to do so. Hence, because of article 37 in the present form, not just a Governing Body decision, but a constitutional amendment would be required to give the experts the legal capacity to interpret ILO Conventions. This amendment would require a two-thirds majority decision by the ILC and ratification by two-thirds of all ILO member States (including five of the ten countries of major industrial importance) in order to give the experts the "legal capacity" to interpret ILO Conventions.
16. For the Employers, once this point is clarified, the only question that remains is how to make this legal state of affairs visible in the experts' reports. Users of the experts' reports have a justified interest to receive clear information on this important point. The Employers made proposals for fair and constructive language to this effect at the last ILC session, which was, unfortunately, not accepted by the Workers, and the Governments were not able to liaise with their capitals in the time available. There may perhaps be different views on how this clarification should look and where it should be reflected in the experts' reports, however, that something needs to be done in this respect cannot be seriously denied.
17. The Employers continue to be ready to discuss solutions with Governments and Workers. It is also for the Office and the Committee of Experts, which we meet in two weeks' time, to come up with their own proposals.
18. If the Governing Body cannot agree the experts' current mandate to interpret Conventions, then our Constitution actually provides the way forward.
19. We have already referred to article 37 of the Constitution.
20. We feel it would be wise for the ILO constituents to receive urgent written and comprehensive advice from the Office of the ILO's Legal Adviser concerning the legal process to be followed by the Governing Body should it, or indeed others, decide to refer this matter to the ICJ. We would like a clear appreciation of the administrative/technical considerations. The alternative option under article 37(2) of the creation of an ILO tribunal will need careful consideration, especially as previous negotiations to create the tribunal failed in 2010 and have since been abandoned.
21. A referral to the ICJ carries significant political and legal risk for us all in the ILO. In June we said that there is no need to make a referral to the ICJ because the experts' mandate is clear. It remains clear to us. If we in the Governing Body cannot agree the current mandate, then the Employers must now accept that regrettably this position will have to change, as article 37 requires us to properly consider an ICJ referral. Be in no doubt that the Employers would not want to outsource such issues to the ICJ.
22. If the ICJ accepts the view that despite the ILO Constitution the mandate has evolved by custom and practice to provide a mandate to the experts to interpret Conventions, then the experts will presumably have a legally confirmed mandate to interpret Conventions, not just Convention No. 87 but all Conventions. This will presumably include a mandate

to interpret into Conventions principles that were expressly left out of the Convention when it was politically negotiated by the ILO constituents and/or interpret principles that develop after ratification without reference to the ILO constituents.

23. **Third**, this brings me to Convention No. 87 and the right to strike. If we pause for a moment and consider the catalyst of this issue: namely, the views of the experts in the 2012 General Survey concerning the right to strike, it presumably follows that if the mandate has been given to the experts to interpret, then the long-held views of the Employers are wrong. Those countries that have ratified Convention No. 87 concerning freedom of association will be expected internationally to amend their national strike laws to comply with the views of the independent experts concerning, say, essential services and political strikes.
24. Those countries that have not ratified Convention No. 87 will presumably need to reconsider their application of the constitutional principle of freedom of association.
25. Companies that sign up to, among others, the UN Global Compact, ISO 26000, the OECD Guidelines, the ILO's MNE Declaration, the UNHRC's Guiding Principles will presumably be expected to implement processes in accordance with the interpretations of the experts concerning Convention No. 87, as it is a fundamental Convention expressly referenced in these international initiatives. Companies that have voluntarily entered into international framework agreements, transnational company agreements or global codes with unions concerning Convention No. 87 will face expectations to respect the experts' interpretations of the right to strike in their workplaces. This will be regardless of whether the country in which they have operations has ratified Convention No. 87 or already has national strike laws. How are companies supposed to do that safely if to do so is at odds with national law? Companies will need certainty.
26. If we can agree that the mandate is the one the ILO constituents agreed in 1947, then what do we do about the experts' views concerning the right to strike?
27. If the ILO constituents believe it is time to agree an international right to strike, then the ILO constituents need to discuss this and agree this first. The Employers are willing to engage and constructively discuss this issue. We would anticipate a comprehensive tripartite discussion.
28. To sum up:
 - We are 100 per cent committed to ensuring there is a list of cases at the 2013 meeting of the CAS.
 - We ask for the experts' mandate to be clarified and made visible to the outside world in their reports. To help us do that we ask for a coherent answer to the aforementioned question raised in the informal consultation in September.
 - It appears sensible to us that there are further informal tripartite consultations before the March 2013 session of the Governing Body. These need to be arranged sensibly.
 - We all need clarity from the Legal Adviser concerning what the article 37 process requires.
29. Thank you Chair.

99. *The Worker Vice-Chairperson* recalled that at the informal consultations on the Committee on the Application of Standards organized by the Office on 19 September 2012, the Employers and Workers had made a clear commitment to agree on a list of cases to be discussed at the 2013 Conference. The Office was also requested to prepare an information document on the mandate of the Committee of Experts on the Application of Conventions and Recommendations for the 317th Session (March 2013) of the Governing Body.

100. It had also been agreed that a second set of informal tripartite consultations would be held during the 316th Session (November 2012) of the Governing Body to provide the necessary guidance to the Office on the outline of the document to be prepared. He therefore expressed deep disappointment that these consultations had not taken place on Friday, 9 November, as proposed, due to the Employers' absence.

101. He did not wish to react to the Employers' views on the mandate of the Committee of Experts, indicating that this should have been the subject of discussion at the consultations.
102. The question raised by the Employers on the mandate of the Committee of Experts was a complex issue that could not be answered by a plain yes or no. While a decision could not be taken on the issue at this point, the consultation process should continue. It was important to recognize that the process required time, and could not be brought to a conclusion in only a few meetings.
103. He stressed that without agreement on the mandate of the Experts and without the re-establishment of mutual trust and confidence, a discussion on the revision of standards would be meaningless. He reiterated the importance of continuing the informal consultations based on the document prepared by the Office containing the issues indicated in the outline.
104. *Speaking on behalf of the Africa group*, a Government representative of Kenya welcomed the joint commitment made by the Employers and Workers. She regretted that much of the mandate of the Committee of Experts on the Application of Conventions and Recommendations (CEACR) still stood unresolved and called for continued and objective dialogue until a lasting solution was found.
105. *Speaking on behalf of GRULAC*, a Government representative of Colombia asked that the contents of article 37, paragraph 1, of the ILO Constitution be clearly developed in the Office's document. Only the International Court of Justice was competent to interpret international labour Conventions. Her group understood that the problem raised in the Committee on the Application of Standards at the 101st Session of the Conference did not concern the right to strike, which enjoyed constitutional status in GRULAC States, but had resulted from the CEACR's interpretation of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87). She expressed concern, with regard to the informal tripartite consultations held in September 2012, at the lack of clear, objective and transparent criteria for drawing up a list of cases for the Committee on the Application of Standards. The situation should be addressed to safeguard the credibility of that body. She stressed that all matters relating to the Committee on the Application of Standards should be addressed by the Working Party on the Functioning of the Governing Body and the International Labour Conference.
106. *Speaking on behalf of ASPAG*, a Government representative of the Islamic Republic of Iran reiterated his Government's support for a robust and effective ILO supervisory system. He regretted that further consultations had not taken place in November 2012. He hoped that all parties would cooperate to enable the resumption of the work of the Committee on the Application of Standards and sought reassurance from the social partners on their commitment to producing a timely list of cases.
107. *Speaking on behalf of IMEC*, a Government representative of Canada said that the social partners' failure to agree at the 2012 session of the Conference had ramifications for the ILO's supervisory system as a whole. Governments should not get involved in the development of the list of country cases. IMEC sought assurance of the Workers' and Employers' commitment and hoped that it would extend beyond the 2013 session of the Conference. The extremely complex issue of the mandate of the CEACR might not be settled by June 2013. Notwithstanding, the Committee on the Application of Standards should be allowed to fulfil its mandate without further interruptions. She asked the Office to make the necessary provisions for further consultations at the next session of the Governing Body, ensuring transparency throughout the process. The consultations should enable the Governing Body to hold a substantial discussion based on concrete proposals.

- 108.** *A Government representative of Zimbabwe* supported the statement made by the Africa group. She urged the Office to continue working with those involved in the informal consultative process with a view to producing a comprehensive document for the March 2013 Governing Body. Zimbabwe supported the draft decision.
- 109.** *A Government representative of China* hoped that the Office would publish a list of countries in time for due consideration by governments. With a view to resolving the issues encountered in June 2012, he asked the Office to provide information on the different options available and on their legal effects. He suggested consulting other organizations.
- 110.** *A Government representative of France* supported IMEC's statement. He regretted the lack of informal consultations at the 316th Session of the Governing Body and hoped that another round would be held in March 2013. The commitments made by the social partners were crucial for the Organization's supervisory mechanism, the weakening of which would be harmful for all parties concerned.
- 111.** *A Government representative of Japan* welcomed the Workers' and Employers' commitment to produce a list of cases. The ILO's supervisory system was essential in protecting fundamental rights at work and he hoped that the list would be established on the basis of dialogue and consensus.
- 112.** *A Government representative of the United States* endorsed IMEC's statement. She hoped that the commitments made by the Employers and Workers would extend beyond 2013. In view of the complexity of the issues surrounding the mandate of the CEACR, she urged for a similar commitment to ensuring that the Committee on the Application of Standards was able to fulfil its critical mandate. The ILO supervisory system was a unique and essential component of the Organization's mandate. It was, therefore, imperative that the current situation be dealt with openly and constructively to strengthen, rather than diminish, the effectiveness, credibility and prestige of that system.
- 113.** *A Government representative of India* said that tripartite consultations should serve the interests of all stakeholders. Governments and social partners should work together to create a work environment that was conducive to achieving strong economic growth with due regard for the interests of the working class and vulnerable sections of society. Issues relating to the mandate of the Committee of Experts needed to be discussed in light of the ILO's mandate and the powers of UN organizations.
- 114.** *The Director-General* thanked the Governing Body for its guidance. There was no disputing the gravity of the issues that had arisen. He noted the concern and commitment of the Governing Body to working in a constructive manner to find solutions to those highly complex issues. Further informal consultations should take place so that the March 2013 Governing Body was in a position to register progress rather than just exchange information. Although the issues might not be resolved by June 2013, there was a need to move forward. The firm commitment of the Employers' and Workers' groups was, therefore, an encouraging sign of a cooperative spirit. The integrity, effectiveness and authority of the ILO's supervisory system were at stake and the Organization could not afford compromise. The Office's political engagement should support the constructive spirit of cooperation that had been demonstrated.

Outcome

- 115.** *The Governing Body, noting the outcome of the informal tripartite consultations which had taken place on 19 September 2012 and the commitment to pursue discussions in a constructive manner, invited the Officers of the Governing Body to pursue informal tripartite consultations and to report to the Governing Body at its 317th Session (March 2013).*

(GB.316/INS/5/4, paragraph 14.)

Follow-up to the discussion on Myanmar: Implementation of the joint strategy for the elimination of forced labour, operation of the new labour legislation including freedom of association, impact of foreign investment on decent working conditions (GB.316/INS/5/5)

- 116.** *The Worker Vice-Chairperson* congratulated the Office on the many activities that were already under way in Myanmar. He noted that many national laws had been recently adopted, which the Committee of Experts had not yet had the opportunity to examine. Technical cooperation activities should take account of the Committee's possible observations and adjust the planning of activities and production of training material accordingly. ILO Conventions should be the main reference of all ILO activities rather than national legislation.
- 117.** The Federation of Trade Unions of Burma (FTUB) should be considered as the interlocutor representing the Workers and be consulted in the process of reform. ACTRAV should be associated in the preparation and implementation of activities for workers.
- 118.** With regard to the elimination of forced labour, he noted that the Villages Act and the Towns Act had been amended, bringing the definition of forced labour into line with Convention No. 29. However, article 359 of the Constitution still allowed for labour imposed by the State in the interest of the public. Furthermore, the group questioned whether the penalty for contraventions was sufficiently dissuasive and it urged the Government to take into account the observations of the Committee of Experts on the new legislation, when available.
- 119.** The Workers' group recalled that the ILO and the Government of Myanmar had in June 2012 adopted a joint strategy to ensure that the Government fully complied with the Commission of Inquiry's recommendations by the end of 2015. FTUB and ACTRAV should be involved in the implementation of the joint strategy.
- 120.** The Workers were concerned that despite a decline in reports of forced labour it was evident that the practice continued in many regions of the country, in particular by the military. Furthermore, land grabbing was expected to become an increasingly serious problem as investment in Myanmar increased. In addition to the usual forms of forced labour, bonded labour of children and the near slave-like conditions of some domestic servants needed to be addressed.

121. Penalties for the exaction of forced labour were not strictly enforced and were often only administrative in nature, seldom resulting in imprisonment even for serious or repeat offenders. The ILO should report on the sanctions imposed on those convicted for the exaction of forced labour and further ascertain the status of the two imprisoned labour activists, Naw Bey Bey and Nyo Win. The group called on the Government to order their release.
122. Turning to freedom of association, he said that the group welcomed the many positive developments that had taken place in recent months. He would make a further statement in the discussion of document GB.316/INS/7.
123. He welcomed the appointment of Mr Ross Wilson as Chief Technical Adviser for the freedom of association project and the beginning of awareness-raising and training activities in the area of freedom of association. Measures should be taken to address anti-union action and inadequate legal protection for workers and unions. He requested further information as to the procedures in place to enforce the decisions of arbitration bodies.
124. With regard to foreign investment, he would have liked to have seen much greater detail on the impact of foreign investment that has already been made and the measures in place or being contemplated to ensure that new investment contributes to decent work. He requested further information on ILO cooperation with the World Bank on the elimination of forced labour.
125. It was important to involve the social partners in the development and implementation of the DWCP. He requested further information about the relationship of the country programme to the Joint Action Plan, stressing that successful completion of the Joint Action Plan should take priority. The description of social, responsible enterprise development needed to be better defined and he wondered why agriculture had not been mentioned in the discussion of the employment dimension of trade, given its size and importance to the economy.
126. *The Employer Vice-Chairperson* said that the newly established Committee on the elimination of forced labour, which had already met six times, was an important development. He noted the impressive list of technical cooperation activities, but cautioned that these activities must be in keeping with the present realities and requirements of the country and its development. It was imperative that technical cooperation create a culture of freedom of association and of breaking with forced labour.
127. The Employers' group noted that the number of forced labour complaints had decreased, whereas a growing number were being resolved at the community level, without recourse to the ILO. This seemed to be a significant development in awareness among the population and the group requested the Office to provide more details.
128. The speaker emphasized that the process for developing autonomous employers' and workers' organizations must be transparent. A change in culture would not happen overnight, but would take time to evolve. In this respect it was important that the Office and the Liaison Officer follow up where appropriate. Technical support and training should be provided for the arbitration institutions and labour administrators who would enforce new standards and laws. He was concerned about the low number of workers' and employers' organizations that had registered so far and urged the Office to work towards increased awareness.
129. The elimination of forced labour and implementation of freedom of association should take priority over other activities.

130. The Yangon Office should be given the necessary resources to carry out its work in the long term. The speaker requested information about budgetary allocations as well as voluntary contributions and stated that additional voluntary support should not result in fewer resources. Although significant progress had been made, the ILO's work was not yet completed. The Organization must be realistic and assess the impact of its work, so that it could continue over time.
131. *A Government representative of Myanmar* said that his delegation associated itself with the statement of the Government representative of Viet Nam. His country was making democratic progress. Challenges remained, but the Government was resolutely committed to overcoming them and would do so with the support of the international community. Encouraging signs of recent political and social progress included the establishment of a firm system of checks and balances, the granting of amnesty to prisoners, the dignified return of exiles, the holding of free and fair elections in 2012, the abolition of media censorship, the establishment of workers' and employers' organizations, and an increased participation of the people in the political process. Ms Aung San Suu Kyi's role as a Member of Parliament and Chair of the Rule of Law, Peace and Stability Committee was also noteworthy. Landmark laws had been adopted, bearing socio-economic, environmental and labour considerations in mind. The scope of political participation had been extended and negotiations with different groups were proving fruitful.
132. The comprehensive Office report covered significant developments achieved over the last 18 months with respect to the protection of workers' rights. The proposed interim programme framework for technical cooperation activities would enhance workers' rights and promote employment opportunities. Implementation of the interim programme should be carried out in line with the plan of action and required an enhanced cooperation between the ILO and the ministry concerned. The country valued the importance of technical cooperation and capacity building in the promotion and protection of workers' rights, taking into account the country's real needs and priorities. Transparency and cost effectiveness in handling funding for technical cooperation activities were also essential.
133. *Speaking on behalf of ASEAN*, a Government representative of Viet Nam welcomed significant developments in Myanmar with regard to labour-related issues. He commended the Government's commitment in favour of socio-economic development, good governance, democratic practices, the promotion and protection of human rights, and the consolidation of national peace and reconciliation. He also welcomed the ongoing cooperation between the Government and the ILO to implement the action plan for the elimination of all forms of forced labour by 2015, and to prevent under-age recruitment, among other efforts. He reaffirmed ASEAN's commitment to support the ongoing democratization process in Myanmar and encouraged the ILO and the international community to follow suit. In light of recent developments, ASEAN called for the prompt lifting of the remaining restrictions imposed on Myanmar by the ILC.
134. *Speaking on behalf of the EU and its Member States*, a Government representative of Cyprus said that Albania, Armenia, Croatia, Iceland, The former Yugoslav Republic of Macedonia, the Republic of Moldova, Montenegro, Serbia and Ukraine had aligned themselves with her statement. The EU recognized the encouraging progress already achieved by Myanmar/Burma and reaffirmed its commitment to collaborate with the Government to assist all actors involved in the reform process and strengthen the rule of law, respect for human rights and national reconciliation. The EU encouraged implementation of the action plan for the elimination of all forms of forced labour by 2015 and welcomed the flourishing of workers' and employers' organizations, noting the release of a number of labour activists. With regard to the EU's persistent concern with reports of dismissals of union leaders by some companies, she called on the Government to identify and release all remaining labour activists and political prisoners and to remove all

restrictions placed upon them. The EU welcomed the various activities of the CEACR in the country. Trade and foreign investment opportunities in the country should be explored with respect for the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy (MNE Declaration).

- 135.** The EU called on the Office to take the following items into account as regards the proposed interim programme framework for technical cooperation activities: (i) immediate focus should remain on fundamental principles and rights at work, notably freedom of association and abolition of forced labour; (ii) cooperation with other international organizations and a coordinated approach were needed on the other areas identified in paragraph 63; (iii) further details on the resource requirements indicated in paragraph 60 were desirable; and (iv) gender mainstreaming activities mentioned in paragraph 65 were likewise welcome. The EU called upon the Office to modify paragraph (c) of the point for decision, in line with paragraph 8 of the resolution on Appendix I of the document, as follows:

Calls upon member States and international organizations to provide voluntarily contributions to the ILO programme in Myanmar.

- 136.** *A Government representative of Thailand* endorsed the ASEAN statement. He welcomed the Government's consistent efforts to undertake extensive reform measures and its commitment to cooperate with the ILO on issues related to forced labour and freedom of association. Recent positive developments in Myanmar included the approval by the Cabinet of an action plan in this regard and Parliamentary approval of the Ward or Village Tract Administration Law. The fact that complaints continued to be received under the mechanism set up by the 2007 Supplementary Understanding was an indicator that awareness-raising activities in this regard had been successful. The Governing Body should acknowledge the efforts of the Government and the Liaison Office by endorsing the proposed interim programme framework for technical cooperation activities. Restrictions imposed by ILC resolutions should be lifted.
- 137.** *A Government representative of Australia* pledged the Government's continued support to Myanmar in its democratic transition. He underscored the importance of labour rights and of encouraging ethical investment. He called on member States to provide voluntary contributions to the ILO programme in Myanmar. He underscored Australia's long-term support for the ILO's Tripartite Action to Protect Migrants within and from the Greater Mekong subregion from Labour Exploitation, to which the country would provide US\$10.5 million over the next five years. In view of the commendable progress achieved recently, the Governing Body should take no further action under article 26. Australia fully endorsed the priorities set out in the proposed interim programme framework for technical cooperation activities.
- 138.** *A Government representative of Cambodia* endorsed the ASEAN statement. His delegation appreciated the Government's commitment to promote and protect human rights, as well as the rapid progress achieved since the previous session of the Governing Body. The signing of the Memorandum of Understanding (MoU) on a joint strategy to eliminate all forms of forced labour in Myanmar by 2015 was an indication of the Government's willingness to comply with Convention No. 29. Myanmar needed support and encouragement from the international community in its national reconciliation and democratization process.
- 139.** *A Government representative of the Russian Federation* recognized the progress achieved by Myanmar with regard to the implementation of Convention No. 29. He commended the passing of a new law banning forced labour which would help fight child recruitment into the military. In view of the great progress achieved so far, cooperation between Myanmar and the ILO should be stepped up to achieve the goals set out in the action plan for the elimination of all forms of forced labour by 2015.

140. *A Government representative of China* recognized Myanmar's active cooperation with the ILO and the results already yielded in the elimination of forced labour. Citing a number of examples of the progress achieved so far, he supported the draft decision in the document and hoped the Governing Body would consider lifting all restrictions imposed on Myanmar.
141. *A Government representative of India* appreciated the Government's efforts and observance of Convention No. 29. He welcomed legislative measures to condemn forced labour and the ILO's training activities in this regard. The ILO should provide capacity building to the newly established conciliation and arbitration bodies and help rehabilitate those freed from forced labour. The country should also promote understanding of its new legislation. In light of recent positive developments, India fully endorsed the action plan for the elimination of all forms of forced labour by 2015.
142. *A Government representative of Japan* welcomed progress on the elimination of forced labour in Myanmar. The Government's efforts and the people's response at the community level were gratifying. Japan welcomed the comprehensive programme of work to support the identified priorities described in paragraphs 57–60. It also noted the need to expand the Liaison Office and the importance of strengthening its coordination with the ILO Regional Office for Asia and the Pacific.
143. *A Government representative of Canada* commended the Office and the Liaison Office for their work, appreciated the comprehensive report and noted the recommendations of the mission undertaken in May 2012 by the Officers of the Governing Body. She welcomed recent legislative changes and the continuing reform process and transition to democracy. While progress in eliminating forced labour had been made, many challenges remained. Achieving peace among ethnic communities and religious groups was essential. Canada urged the Government to unconditionally release all remaining political prisoners and to work with opposition members and ethnic groups to find sustainable solutions. The ILO's contribution as part of the Myanmar Peace Support Initiative was also welcome. Canada endorsed the comprehensive programme of work, the three objectives identified in paragraph 57, and supported the decision point in paragraph 67.
144. *A Government representative of Switzerland* endorsed the EU statement. The plan of action and its implementation needed to remain a priority. Her Government encouraged the ILO to collaborate with other international organizations to eliminate forced labour. Switzerland would support efforts in this regard, in particular through investment in capacity building of small and medium-sized enterprises. Switzerland thanked the ILO for its continuous work and supported the point for decision in paragraph 67, adhering itself to the requests formulated by the EU.
145. *A Government representative of the United States* commended the numerous and far-reaching changes brought about over the past year, in particular with regard to freedom of association, fundamental rights and principles at work, and the commitment to eliminate forced labour by 2015. His Government looked forward to progress being achieved in the following areas: (i) the development of permanent, sustainable institutions and processes at the national and community level; (ii) the establishment of an operational plan on the elimination of forced labour by 2015; and (iii) prompt and effective prosecution of perpetrators of forced labour. Improvements related to freedom of association and social dialogue were laudable. These should be accompanied by strong enforcement mechanisms within the Government. Challenges remaining included the ongoing ethnic and religious conflicts, lack of accepted procedures for handling workplace disputes and the need to train a generation of people in power unaccustomed to working with civil society. His country was committed to supporting the democratic and reform processes, which would

be accelerated by the proposed interim programme framework for technical cooperation activities. The United States supported the draft decision in paragraph 67.

- 146.** *A representative of the Government of Cuba* said that her country reiterated its opposition to all forms of forced labour. Her delegation welcomed the up-to-date information provided by the Ambassador of Myanmar and the measures that the country was adopting to eliminate forced labour, notably: bringing national legislation into line with the Forced Labour Convention, 1930 (No. 29); the approval of a plan of action for the elimination of all forms of forced labour by 2015; the coordinated and ongoing work of the Committee for the elimination of forced labour; the participation of various sectors of the country in awareness-raising seminars on forced labour organized by the ILO; and the preparation and distribution of a brochure on forced labour in seven languages. Lastly, the speaker encouraged the Office to go on providing technical assistance to the Government of Myanmar to enable it to continue to bring its legislation into line with Convention No. 29.
- 147.** *A representative of the Government of the Bolivarian Republic of Venezuela* welcomed the up-to-date information provided by the Ambassador of Myanmar. He appreciated the efforts made by the Government of Myanmar to eliminate forced labour, which might bear fruit even before 2015, and encouraged the Office to continue to provide Myanmar with all necessary support. He supported the draft decision contained in paragraph 67 of the document.
- 148.** *A representative of the Director-General (Liaison Officer)* took note of the observations that had been made. Regarding the relationship with the World Bank, he said that it was looking to put into place in Myanmar a community-led development programme aimed at employment generation and skills development, among other things. The World Bank had asked the ILO to provide local communities with rights-based training and governance training and to extend its complaints procedure into a grievance mechanism. With regard to the predominance of administrative penalties, the matter was discussed with the Government of Myanmar on a regular basis. In respect of concerns about the enforcement of arbitration orders, work was under way with the Government towards identifying ways for those orders to be appropriately enforced. On the issue of the community-level resolution of disputes, the media had taken considerable steps to raise people's awareness of the illegality of forced labour. Behaviour was changing in Myanmar and conflicts were being resolved more often at community level, which was very positive. With regard to the budget, for the 2012–13 biennium the regular budget contribution was US\$1.2 million. Discussions were currently under way about what further supplementary allocation might be required to support the increased programme activity. Lastly, he said that at the present level of commitment shown by all parties, the targets relating to eliminating forced labour in Myanmar were achievable.
- 149.** *The Worker Vice-Chairperson* said that his group supported the draft decision as amended.
- 150.** *The Employer Vice-Chairperson* said that his group was also in agreement with the draft decision as amended.

Decision

151. *The Governing Body:*

- (a) endorsed the proposed interim programme framework for technical cooperation activities in Myanmar;*

- (b) *requested the Office to report on progress in its implementation at the 319th Session (October 2013); and*
- (c) *called upon member States and international organizations to provide voluntary contributions to the ILO programme in Myanmar.*

(GB.316/INS/5/5, paragraph 67.)

Sixth item on the agenda

Decent work in the post-2015 development agenda

(GB.316/INS/6)

152. *The Director-General* said that it was important for the ILO to play an active role in determining the priorities and modalities for a global sustainable development agenda for the period after 2015. A development agenda which did not centre on decent work would be incomplete. The paper before the Governing Body described the context of the current debate on the subject and the main steps in a complex process of consultations.
153. The MDGs had provided a tool for prioritizing development assistance and had prompted greater cooperation in the field of poverty eradication. Setting goals and measuring progress had lent impetus to concerted international action, but a conviction was growing that it was necessary and possible to tackle the root causes of poverty by searching for a new pattern of growth which would be more sustainable, inclusive and equitable. Decent and productive jobs were the most sustainable way to overcome poverty and they laid the foundation of prosperous and inclusive societies. The ILO's Recommendation on SPFs was a practical input to sustainable poverty reduction. The desire for employment with rising income, dignity and respect was a development goal that spoke directly to peoples and societies across the globe. The ILO could offer the international community the tools for achieving that goal and for upgrading the set of indicators used to monitor the targets of full employment and decent work. That would offer the ILO the opportunity to place its agenda at the heart of the United Nations' development agenda. The paper asked for guidance in mapping out a strategy to that end. The ILO and its constituents must explain to the negotiators of the post-2015 development agenda how the Decent Work Agenda could become a top objective. They must participate in the process which would lead to the drafting of a paper by the UN Secretary-General on how negotiations could move forward.
154. In the light of those considerations the Officers of the Governing Body were proposing an amended version of the draft decision which suggested that decent work and employment should be established as an explicit goal of the agenda beyond 2015 and which referred to the types of briefing and concept papers that the Office could be asked to produce to assist its constituents in advancing the achievement of that objective. That was the beginning of what could be a strategic avenue of action for the ILO which should be seen in the context of the budget debate.
155. *The Employer Vice-Chairperson* expressed satisfaction with the document. Resulting from Rio +20, it was very clear on the crucial objective of overcoming poverty, to which his sector was fully committed. Economic policies that promoted growth and the creation of business were needed. These required innovation, human resources, technological resources, the development of professional training, and competitiveness, in particular, the idea of inclusive social competitiveness that emerged from the document.

156. He welcomed the orientation given by the Director-General on how to work in the future, and stressed the need for a close relationship between the Office and the Governing Body, to ensure that tripartism in action would be reflected in the debate. He expressed his group's support for the draft conclusions, and emphasized the importance of strengthening the ILO's presence in all international forums, particularly during the adoption by the UN General Assembly of the new objectives later this year.
157. Tripartite constituents needed to ensure consistency between the work of the Governing Body and the Office. He reaffirmed his group's support to this process. Noting that civil society stakeholders were increasingly being consulted in various forums for international action and interaction, he reiterated his group's wish that in the context of the reform and modernization of the Governing Body, the ILC's agenda should reflect the needs of the international community and all societies. His group fully agreed with the objective of influencing, to all extent possible, the post-2015 development objectives, and supported the proposal put forward by the Officers of the Governing Body.
158. *The Worker Vice-Chairperson* referred to his group's mixed views of the MDGs. On the one hand, workers had deplored the modest nature of the goals and targets which did not match the scale of the problems. The goals focused more on the quantitative aspects of poverty while glossing over the multidimensions of poverty, social exclusion and human rights. On the other hand, the MDG process had been also positive in focusing national and international attention on a set of good objectives, and had been a useful instrument for policy coherence in the multilateral system. It had offered the potential, although unfulfilled, of policy alignment between international agencies, bilateral donors and governments.
159. A key limitation of the MDGs was that efforts to achieve some targeted social objectives in areas like health and education were underpinned by a macroeconomic framework loyal to the fundamentals of the Washington Consensus. His group would have wanted an assessment in the document of the state of progress in meeting the MDGs.
160. The world would be on track to meet goal 1, on extreme poverty, if the impact of the crisis had not derailed the progress made. However, this progress was uneven across countries and was largely due to poverty reduction in China. The ILO's specific targets were under particular stress because of the crisis. He noted that while there had been improvements in the figures for the working poor, nearly 30 per cent of all workers in the world were living below the US\$2-a-day poverty line.
161. He enumerated the different MDGs where results had fallen short to date. For example, little progress had been made on meeting goal 2 on universal primary education. The same held true with regard to goal 3 in the area of gender parity and educational attainment, as well as on goal 4 on the reduction of child mortality. On goal 5, on improving maternal health, only a quarter of developing countries were on track to meet the targets. Goal 6 on combating AIDS, malaria and other diseases continued to pose major challenges. Equally challenging were goals 7 and 8, particularly in the area of official development assistance (ODA).
162. In this context the challenge was twofold: firstly, accelerating progress to meet the MDGs by 2015 and, secondly, shaping the post-2015 agenda so that it could address the fundamental challenges. These included a non-inclusive pattern of growth, which should instead aim at promoting structural transformation, tackling inequality, building adequate SPFs, engaging in structural reforms of the global economy from world trade to the financial system. The ILO must, as a matter of priority, engage in shaping the post-2015 development agenda and its targets, based on a roadmap that should include clearly

defined commitments to the Decent Work Agenda, including comprehensive social protection.

163. *The Workers' group* believed that having one set of goals that embraced both the MDGs and the Sustainable Development Goals (SDGs) was necessary. The ILO should ensure that the four interrelated elements of decent work be included as one of the core global goals to be achieved under the post-2015 development compact. It had to be proactive in enhancing decent work statistical indicators to monitor progress.
164. Finally, the ILO must call for the inclusion of a number of elements that complemented or facilitated decent work, such as addressing the growing inequality. It should also defend the inclusion of a set of human rights including fundamental Conventions as a key component on the post-2015 compact ensuring quality public services for all, and building a fair globalization. The weakness of global governance, the unfairness of the world trade regime, the lack of policy coherence among agencies and the international financial institutions, and the fact that financial markets had hijacked the real economy all had a direct impact on the issue of extreme poverty. It was necessary to develop a set of realistic targets supporting employment-centred, macroeconomic policies and policy coherence among international agencies and financial institutions.
165. *Speaking on behalf of the EU and its Member States, as well as Albania, Armenia, Bosnia and Herzegovina, Croatia, Iceland, Republic of Moldova, Montenegro, Serbia, The former Yugoslav Republic of Macedonia and Ukraine*, a Government representative of Cyprus was convinced that the ILO must play an active and prominent role to ensure that the Decent Work Agenda was fully integrated in the post-2015 UN development agenda. While the MDGs had successfully served as a shared framework for global action, cooperation and development, her group, like others, increasingly saw the limitation of the approach that had been chosen in 2000.
166. She referred to the 2012 report of the UN Task Team which identified four building blocks for the High-level Panel appointed to advise the Secretary-General on the post-2015 agenda, and commented that indeed the Decent Work Agenda fitted well into the building blocks referring to inclusive social and economic development. The Decent Work Agenda should also be seen in light of the outcomes of the Rio +20 Conference and the establishment of the SDGs. It was crucial in promoting an inclusive green economy.
167. The Panel's report for submission to the Secretary-General by 31 May 2013 was an essential input to the ongoing deliberations on the post-2015 development framework, and would play a crucial role in shaping the post-2015 development agenda to be decided during the forthcoming meeting of the UN General Assembly.
168. Following the adoption of Recommendation No. 202, ways should be explored on how best to integrate social protection in the post-2015 development agenda without prejudice to the final outcome. She emphasized the important roles that both the Office and constituents had to play in making the Decent Work Agenda a core priority in the future. Her delegation took note of the amendments proposed by the Officers.
169. *Speaking on behalf of ASPAG*, a Government representative of Australia stated that while it was not clear if all of the ambitious MDGs were going to be met, several important targets, such as halving global poverty and achieving gender parity in primary education, were on track to be achieved by 2015.
170. ASPAG commended the establishment of the UN high-level panel of eminent persons tasked to map out a bold, yet practical vision on the post-2015 global development agenda. At its recent session from 31 October to 2 November, the panel had highlighted the

importance of jobs and truly inclusive growth. ASPAG stressed that the process of determining the direction and themes of the post-2015 development agenda should be member State driven, transparent and all embracing, and called for early and constructive ILO engagement.

171. The group strongly supported the call for the Director-General to develop and implement a strategy to set decent work, which was critical for reducing poverty and helping the global transition to a green economy, as a core priority of this agenda.
172. ASPAG welcomed the agreement at the Rio +20 Conference to adopt a set of SDGs. Noting the close relationship between the overarching ideals of SDGs and discussions on the post-2015 development agenda, the group considered that dialogue on the two should be integrated. It was important to have a holistic approach in developing the framework and not just focus on the goals but also the means of implementation.
173. The group noted the role for stakeholders in business in the decision-making process, which should be reflected in a proposed strategy focused on reinforcing core ILO messages and underlining the essential role that decent work should play within the post-2015 development framework. Early work supporting this strategy had already commenced. Noting that the Director-General recently met with the President of the World Bank on this issue, ASPAG considered that continued engagement with other multilateral agencies and international forums was critical.
174. The group supported the amended draft decision, and the preparation of concept papers to assist with national engagement in the debate, which would allow the importance of the Decent Work Agenda to be clearly articulated within and across governments. ASPAG also supported the regular distribution of briefing notes on the progress of deliberations.
175. *A Government representative of Indonesia* endorsed the ASPAG statement. The ILO needed to be active in shaping the post-2015 development framework to ensure the acceptance of decent work as a core component. The priorities of the post-2015 agenda should be to eradicate poverty; give the poor access to decent jobs and economic opportunities; meet basic needs; foster an enabling economic and financial environment; create social safety nets; and strengthen any efforts to eradicate poverty at the individual and household level through national policies and global partnerships. The speaker supported the draft decision.
176. *Speaking on behalf of the Africa group*, a Government representative of Ghana noted that the African continent continued to struggle to meet development goals. In view of the top-down approach that had been taken in previous target-setting, grassroots ownership of policies was needed in rethinking the agenda and the opinion of constituents should be sought. The importance of the African region in that process could not be underestimated. The causes for failures in Africa to meet the MDGs required due analysis and results should be factored into the post-2015 agenda. Poverty alleviation had been focusing on the symptoms and not the causes and many countries in Africa were still impoverished. Africa's specific needs should be taken into account instead of applying a one-size-fits-all approach. In particular, she highlighted the dismal youth employment situation. The conclusions of regional meetings, such as the 12th ILO African Regional Meeting in 2011, provided guidance for an African decent work agenda. New methods of cooperation should be promoted and the group called for the inclusion of a strategy to enhance and maintain Africa's natural capital as its main source of employment and income. She requested ILO technical support to help Africa accelerate its transition to a green economy and asked the Office to formulate a strategy to assist countries struggling to meet the MDGs. Her group supported the draft decision.

177. *A Government representative of Niger* supported the statement made by the Africa group. The priorities in Africa were to make economic growth more favourable to the poor, transform rural economies, address youth unemployment and promote investment. The ILO needed to make its presence felt and firmly anchor decent work in the post-2015 agenda. A realistic approach would be to extend the MDG deadlines and increase assistance to countries struggling to meet them.
178. *A Government representative of Zambia* supported the statement made by the Africa group. Sustainable development could only be achieved through the effective engagement of all stakeholders and to that end Zambia would participate in any deliberations to achieve inclusive, equitable and sustainable growth and development. He supported the draft decision under paragraph 28.
179. *A Government representative of the Islamic Republic of Iran* supported ASPAG's statement. Many considered that the MDGs had been foisted on developing countries by donors. Establishing development goals required a bottom-up process embracing all UN constituents, especially in poor countries. The agenda should not be hijacked by the most visible organizations. Sustainability and decent work should be incorporated without losing sight of reducing poverty and improving well-being through SPFs. To that end, the Islamic Republic of Iran supported initiatives to shift the debate away from the quantity of aid given, towards achieving sustainable conditions. The Islamic Republic of Iran approved the draft decision under paragraph 28.
180. *A Government representative of China* endorsed ASPAG's statement. Developments over the last decade reflected the importance that the international community attached to decent work. China supported paragraph 28 and the inclusion of employment and minimum social protection in the post-2015 agenda.
181. *A Government representative of the United States* said that sustainable development without employment would not be sustainable. The goal of decent work for all and the work of the ILO was more important than ever. He supported the draft decision.
182. *A Government representative of Trinidad and Tobago* said that the job crisis placed responsibility not only on the Office, but also on the social partners. Decisive action should be taken as a new world order emerged to ensure that job creation was anchored in the principle of decent and sustainable work. All constituents should take proactive action at a national level and through their tripartite organizations. There was a window of opportunity to reinforce global acceptance of decent work as a core development goal and to carve out a new permanent role for the ILO and the social partners. In particular, ILO constituents needed to make every effort to ensure that young people were provided for in the future.
183. *A Government representative of Sudan* said that poverty had become a source of political instability. Governments should be prepared to honour commitments to poverty reduction. The creation of employment had only recently been identified as a means to achieve development goals. As a result, the developing world was in dire straits. Employment would only lead to development once the developing world was able to trade with others on an equal footing and access markets. Actions and not words were required in dealing with youth unemployment. She called for the use of UN resources to create decent work for all. The challenges that had prevented the achievement of the MDGs should be addressed and her delegation looked to the ILO for leadership in that process. She fully supported the statement made by the Africa group. The African Union (AU) had an important role in Africa and she hoped that the ILO would continue to cooperate with the AU and provide technical assistance. Sudan fully supported the draft decision.

184. A Government representative of Denmark fully agreed that decent work should figure as a part of the development agenda, and endorsed the statement made on behalf of the EU. Governments were however involved in a complex and widespread debate regarding the post-2015 strategy. Any decision taken by the Governing Body would, of course, be subject to governments' final decision as to the content of the strategy.
185. A Government representative of Brazil stressed that while the post-2015 development debate had already been engaged, the MDGs had still not been attained. Moreover, many developed countries had not yet fulfilled the agreement to set aside 0.7 per cent of their gross national product (GNP) as development assistance by 2015, or to dedicate between 0.15 and 0.2 per cent of GNP to the least developed countries. South–South and triangular cooperation could not replace official development assistance. Brazil reaffirmed the importance of the three elements recognized as essential to a sustainable future in the Rio +20 outcome document, *The Future We Want*, namely full and productive employment, decent work and social protection. The principles of inclusiveness, transparency, as well as coherence and coordination with the SDGs should guide tripartite action and there should be no dispersion of UN agency activity.
186. Brazil thanked the Office for its clarification regarding decent work indicators. The Office must inform the constituents regularly of any initiative taken in that respect and should take full account of their views. Brazil objected to the methodology proposed at the September 2011 informal consultations. However, clear proposals were required from the Office regarding the critical importance of Decent Work in the development agenda. Further progress on Decent Work indicators must take on the notion of sustainable development.
187. A Government representative of Kenya endorsed the Africa group statement. She looked forward to receiving updates from the Office, and a roadmap setting out ILO engagement in the post-2015 development agenda. The process for setting the post-2015 development goals must be based on bottom-up ownership and ILO efforts must be shaped by the commitment made by the UN Economic and Social Council (ECOSOC) in 2011 to promote productive capacity, full productive employment and decent work as a means to achieve agreed development goals. The decline in multi- and bilateral assistance called for development policies anchored in promoting production and employment, such as South–South and triangular cooperation and public–private partnerships. In promoting such policies the ILO should make the goal of full and productive employment central to the post-2015 development agenda and promote employment creation, enterprise development and social protection as sustainable means of fighting poverty and ensuring inclusive growth.
188. A Government representative of France endorsed the EU statement. France was committed to the adoption of a UN post-2015 agenda, providing a global and sustainable approach to development, based on the current MDGs. The Government had supported decent work at the UN, at the G20 and at the Rio +20 Conference, and welcomed the inclusion of decent work across all documents structuring the post-2015 development agenda. The ILO had a crucial role to play in elaborating the agenda, as recognized by the Director-General in his presentation of the reform.
189. A Government representative of India said that decent work must be promoted in the post-2015 development agenda. Innovative public employment programmes played a strategic role in tackling chronic poverty in many developing countries. India had been less affected by the recent crisis than certain other countries due to proactive measures including the social safety net. Southern countries should exchange successful experiences of those programmes to accelerate progress regarding the MDGs, which would remain relevant after 2015. The economic, social and environmental pillars of the SDGs must be

given equal importance. However, all countries could not be put on the same footing and collective measures should be taken to allow the least developed countries to make the structural changes and investments required to strengthen their productive capacity. The promotion of full and productive employment should be a cross-cutting theme in the post-2015 development framework, with special focus on women and youth. Poverty eradication and sustainable development were closely linked and should be given equal importance post-2015. The global economy would be strongly determined by economic growth and development in southern countries, so efforts to promote South–South cooperation should be encouraged. India supported the proposed action in the draft decision, but warned against the risk of diluting the importance of the MDGs in favour of the SDGs.

- 190.** *The Director-General* noted the strong support and commitment to placing the Decent Work Agenda firmly at the centre of the post-2015 development strategy. The ILO should act, but so also should its constituents. As Brazil had stressed, the ILO would remain attentive to constituents' wishes. Whatever post-2015 strategy was adopted, it was clear that it must not detract from the MDGs, attainment of which remained uneven. Regarding the point raised by the Government of Denmark, it was clear that in defining the post-2015 strategy, governments would be involved in negotiations in a wide range of settings and in assimilating competing demands. With regard to decent work indicators, the Office would be certain to work with constituents so that the right types of indicators and targets were established.
- 191.** There followed an exchange of views as to the proposed amended wording of the draft decision. The Governments of India, Niger and Trinidad and Tobago and the Government of the Islamic Republic of Iran, on behalf of ASPAG, all wished to ensure that the ILO lent its support to helping countries attain the MDGs. The Government of the Netherlands asked for a reference to working "within existing budgets". The Government of Germany felt that that discussion would be more appropriate in the Programme, Financial and Administrative Section.
- 192.** *The Director-General*, in relation to the last point, assured the Governing Body that it was understood that the ILO would not have access to unlimited resources. He suggested an adjusted version of the draft decision, which the Governing Body adopted, as follows.

Decision

- 193.** *The Governing Body requested the Director-General to:*
- (a) develop and implement a strategy for the adoption of full and productive employment and decent work as an explicit goal of the global development agenda beyond 2015, including a reference to the need for SPFs;*
 - (b) prepare concept papers as a support for constituents in their national engagement in the debate on the post-2015 global development agenda and briefing notes for them on the progress of the deliberations;*
 - (c) strengthen ILO support to constituents to assist countries that are still lagging behind in meeting the relevant MDGs.*

(GB.316/INS/6, paragraph 28, as amended by the Governing Body.)

Seventh item on the agenda

Complaint concerning non-observance by Myanmar of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), made by delegates to the 99th Session (2010) of the International Labour Conference under article 26 of the ILO Constitution (GB.316/INS/7)

194. *The Worker Vice-Chairperson* welcomed the positive developments in Myanmar, in particular since the 101st Session of the International Labour Conference (June 2012), notably the release of activists who had been imprisoned because of their trade union activities. Furthermore, the General Secretary of the Federation of Trade Unions of Burma (FTUB), along with other members of the organization, had been permitted to return to Myanmar after 24 years in exile. In other developments, the Government of Myanmar had agreed to allow the establishment of an International Trade Union Confederation (ITUC) office. However, the status of the FTUB continued to be uncertain. Myanmar's law did not permit the registration of labour confederations prior to the establishment of organizations at the township or state level, along with the federation of such unions. The FTUB was organizing workers and helping to build organizations while also seeking general support in order to gain recognition prior to being formally registered as a labour confederation. The FTUB should be consulted by the Government and given the chance to take part in tripartite social dialogue. In relation to technical cooperation, the Workers welcomed the appointment of the Chief Technical Adviser for the Freedom of Association Project and the beginning of awareness-raising and training activities. Myanmar had not had industrial relations in decades. Tasks included addressing national legislation in order to promote Conventions Nos 87 and 98. Following the entry into force of the Labour Organizations' Law, 263 workers' organizations and 12 employers' organizations had been registered by the Government. However, the Workers had received information regarding cases of anti-union dismissals, as well as cases concerning employers requesting workers not to take part in trade unions. Measures needed to be adopted to protect workers from anti-union discrimination. Despite there being substantial improvement in Myanmar's legislation, not all rights under Convention No. 87 were guaranteed. There were continued restrictions regarding the right to strike, and inadequate protection against anti-union discrimination. In addition, orders and decrees that had been put in place by previous military governments had not yet been repealed, including the existence of conditions in the Constitution that undermined freedom of association. The Workers hoped that the Government would take action in order to comply with ILO standards, including putting into place inclusive, consultative and transparent processes for all legislative initiatives and reforms. In view of those developments, the group could support the draft decision under paragraph 6(c), to take no further action under article 26 of the ILO Constitution. However, it outlined four items that the Government of Myanmar should commit to: (1) establishing a tripartite forum to allow social partners to develop a major industrial relations system to ensure decent work; (2) allowing the FTUB to formally represent workers and be associated with social dialogue and consulted regarding the reform process; (3) establishing a temporary mechanism for review of anti-union dismissals to ensure that they were addressed in conformity with the ILO's freedom of association principles; at the conclusion of the process, a report should be generated with recommendations; and (4) reviewing and amending the Labour Organizations' Law and the Settlement of Labour Dispute Law within two years, in consultation with social partners and the ILO. The Workers expected

the Government to take full advantage of the ILO's technical cooperation in order to fully implement Convention No. 87.

195. *The Employer Vice-Chairperson* said that his group also supported the draft decision under paragraph 6(c). He noted that there had been substantial developments in Myanmar. Convention No. 87 needed to be ratified by countries, not regulated as that created restrictions. Employers' and workers' groups needed to have organizational freedom without government intervention. Although the Governing Body was dismissing the complaint relating to Convention No. 87, the ILO process of technical cooperation with the Government of Myanmar and with its social partners would continue to be monitored. In each case that it looked at, the group hoped to see a concrete and positive change as far as freedom of association and the way in which workers and employers were able to express themselves were concerned, resulting from technical cooperation and all the measures available to Myanmar.

196. *A Government representative of Myanmar* provided a chronological outline of the progress achieved by Myanmar in the area of freedom of association since the 313th Session of the Governing Body. He pointed to the measures taken to enhance cooperation with the ILO, recently through the appointment of Mr Ross Wilson as the Chief Technical Adviser for the Freedom of Association Project. Progress had also been made in relation to the FTUB, in particular through the return to Myanmar of its General Secretary. An ITUC delegation to Myanmar had submitted a proposal on the establishment of an ITUC project office in Myanmar and had worked with government officials on raising awareness among workers and employers regarding the functions of registrars, the settlement of disputes and providing training for workers and employers. Since the previous session of the International Labour Conference, nine of the 11 individuals of interest to the ILO had been released and the status of the remaining two individuals was under review. Other significant developments, not directly related to freedom of association, included the enactment of the Settlement of Labour Dispute Law, the Law on Peaceful Assembly and Procession, the Social Security Law and the Foreign Investment Law. Myanmar fully embraced the concept of ethical investment. Conferences on corporate social responsibilities had been conducted at the initiative of the Union of Myanmar Federation of Chambers of Commerce and Industry and over 100 local companies had signed up to the United Nations Global Compact. Although it would continue to make further efforts, the Government of Myanmar considered that it was in compliance with Convention No. 87 in both law and practice and that the country deserved due recognition through a decision to take no further action under article 26 of the ILO Constitution.

197. *Speaking on behalf of the EU and its Member States*, a Government representative of Cyprus said that Albania, Armenia, Croatia, Iceland, Republic of Moldova, Montenegro, Norway, Serbia, The former Yugoslav Republic of Macedonia and Ukraine aligned themselves with the statement. She welcomed the developments in Myanmar and the reinforcement of the ILO's capacity in the country. The EU would continue to promote economic development through increased assistance for poverty reduction, capacity building and strengthened sectoral dialogue in Myanmar. The EU considered that the appointment of a commission of inquiry should be postponed until the March session of the Governing Body as outlined in paragraph 6(b).

198. *A Government representative of the Russian Federation* called for the promotion of new trade union activities and the reinforcement of the social security system. Support should be given to the work of the Ministry of Labour in defending workers' and employers' organizations. In view of the measures implemented for ongoing progress, he did not support the appointment of a commission of inquiry.

199. A *Government representative of Thailand* said that technical cooperation between the ILO and Myanmar should be further expanded with a special focus on education and training. He supported the draft decision under paragraph 6(c).
200. A *Government representative of Australia* said that Myanmar still had considerable scope for improvement but that the Government had demonstrated its political will to promote adherence to human rights and its understanding of the need for continued progress. Capacity constraints remained the key challenge and would not be resolved by a commission of inquiry. Myanmar's application of Convention No. 87 was already being reviewed by the Committee of Experts on the Application of Conventions and Recommendations and the Committee on Freedom of Association. He concluded by supporting the draft decision under paragraph 6(c).
201. A *Government representative of China* said that proactive cooperation, such as Myanmar had undertaken with the ILO, was key to solving problems. China fully supported the draft decision under paragraph 6(c).
202. A *Government representative of the United States* welcomed the Government's political will to resolve issues. However, that was only the beginning of the process to ensure the protection of fundamental rights on a sustainable basis. He endorsed the specific measures outlined by the Workers' group and called on the ILO to fulfil its commitment to ensure full respect of the principle of freedom of association and the application of Convention No. 87.
203. A *Government representative of Viet Nam* expressed his appreciation for the continued commitment to cooperation shown by the Government of Myanmar and the ILO and the continued commitment to the promotion of human rights. In order to further encourage reforms towards democratization no further action should be taken under article 26 of the ILO Constitution.
204. A *Government representative of Indonesia* said that his country would continue to stand by Myanmar on its path to reform and called on the international community to lend its support. He was encouraged by the developments in Myanmar and its continued cooperation with the ILO. In that light, a commission of inquiry was no longer required.
205. A *Government representative of India* noted that Myanmar was extending all necessary support to the ILO's technical cooperation team. He reiterated the importance of further investment and cooperation by the international community to foster dialogue and said that the ILO should continue its technical assistance. India supported the draft decision under paragraph 6(c).
206. A *Government representative of Japan* welcomed the developments in Myanmar. Considering that freedom of association had been recognized for the first time in 50 years, it was essential to increase workers' and employers' understanding of the implementation of the new legislation. Japan supported the view that a commission of inquiry was not necessary.
207. A *Government representative of Switzerland* said that raising awareness on social dialogue would take time and she welcomed all ILO efforts in that regard. In the hope that progress would continue, Switzerland supported the draft decision under paragraph 6(c).
208. A *Government representative of the Bolivarian Republic of Venezuela* said that the Office's support had been highly valuable in achieving progress in Myanmar. The Government of Myanmar had shown continued commitment to the implementation of

Convention No. 87. Calling for reinforced technical cooperation, the Bolivarian Republic of Venezuela supported the draft decision under paragraph 6(c).

- 209.** *A Government representative of Cuba* said that her country was in favour of giving the Government of Myanmar the opportunity to continue its progress in the area of freedom of association on the basis of technical cooperation and bilateral dialogue with the ILO. She supported the draft decision under paragraph 6(c) and called for continued technical cooperation, open dialogue and consideration of the situation in Myanmar.
- 210.** Following an exchange of interventions with amendments proposed by the Workers' group, the decision was adopted as shown in paragraph 212 below.
- 211.** *Speaking on behalf of the EU and its Member States*, a Government representative of Cyprus said that although the EU would have preferred to postpone a decision until the 317th Session in March 2013, it joined the consensus on the decision.

Decision

212. The Governing Body decided:

- (a) to take no further action under article 26;*
- (b) to request the International Labour Office, in the light of the guidance given under this agenda item, to continue its close cooperation with the Government to bring about the application of Convention No. 87.*

(GB.316/INS/7, paragraph 6, as amended by the Governing Body.)

Eighth item on the agenda

Latest developments in Fiji in light of the resolution of the 15th Asia–Pacific Regional Meeting

(GB.316/INS/8 and GB.316/INS/8(Add.))

- 213.** *The Chairperson* recalled that the Workers' group, with the support of the Employers' group, had presented a resolution on the situation of trade unions in Fiji. A signed letter, dated 9 November, had been received from the Prime Minister of Fiji, and included as an addendum of document GB.316/INS/8.
- 214.** *The Worker Vice-Chairperson* said that his group was deeply concerned over the latest developments in Fiji and was proposing the adoption of a resolution by the Governing Body aimed at deploring a number of events and encouraging renewed collaboration between the ILO and the Government of Fiji.
- 215.** Concerning point (a) of the resolution adopted at the Asia–Pacific Regional Meeting, he underlined that, even if no new assaults on trade union members had taken place since the Conference, the intimidation and close monitoring of those persons continued.

- 216.** Concerning point (b), his group regretted the lack of progress in the implementation of the Committee's recommendations on Case No. 2723. Furthermore, he regretted that the direct contacts mission, although initially accepted by the Prime Minister, could not carry out its work beyond its first meeting.
- 217.** Concerning point (c), while Mr Anthony had been able to leave and re-enter the country freely on trade union matters since June 2012, the fact remained that incidents affecting the freedom of movement of trade union leaders continued to occur.
- 218.** Restrictions on freedom of assembly and speech remained in force, and were reaffirmed and expanded in late June 2012 following the promulgation of the Public Order Amendment Decree. The Decree still referred to treason and sedition, with the result that those participating in meetings could be charged with such offences. Furthermore, participants still had to apply to the police for permission to hold public meetings and could face up to five years in prison for failing to do so.
- 219.** Despite the Government's assurances to the contrary, workers in Fiji continued to face disruption in their activities and were still being denied basic rights. In light of that fact, and the Committee's conclusions and recommendations on Case No. 2723, his group requested the Governing Body to support its resolution. The Governing Body should also instruct the Director-General to work with the Government of Fiji to ensure that a direct contacts mission was accepted under the previously agreed terms of reference.
- 220.** *The Employer Vice-Chairperson* reiterated his group's concerns over industrial relations in Fiji, which had been voiced at the Asia-Pacific Regional Meeting in December 2011. An ILO direct contacts mission to examine the situation in the country had been arranged with the agreement and cooperation of the Government. His group deeply regretted that the mission had been unable to fulfil its agreed mandate on arrival in Fiji. It emphasized that direct contacts missions were based on agreed terms of reference to enable the ILO to engage with governments in order to help them comply with international labour standards. Therefore, it was vital for governments to act in good faith. In light of the above, the Employers' group aligned itself with the resolution presented to the Governing Body by the Workers.
- 221.** Taking note of the letter addressed to the Governing Body from the Prime Minister of Fiji and the apparent willingness of his Government to re-establish dialogue, the group strongly encouraged the Government to take steps to allow the direct contacts mission to take place under the agreed terms of reference as soon as possible.
- 222.** *A Government representative of Fiji* affirmed his Government's strong commitment to political, social and economic reforms aimed at insuring social justice and equality for the Fijian people. His Government hoped to achieve its goal of establishing sustainable democracy in the country by 2014. The current reforms would address the political system inherited from the colonial era, which fostered racial politics and a culture of corruption. In that connection, his Government had committed itself to reviewing, in 2012 and early 2013, all current labour laws relating to ratified ILO Conventions, including compliance issues raised by the Committee on Freedom of Association, the Committee of Experts on the Application of Conventions and Recommendations, the Committee on the Application of Standards, the International Trade Union Confederation, the Fijian Trade Union Congress, the Fijian Teachers' Association and the Fiji Islands Council of Trade Unions. It was anticipated that the labour law review would be completed by the end of February 2013.

223. He confirmed Fiji's commitment to the ILO as a member State and his Government's appreciation for the ILO's role in ensuring the country's compliance with the Conventions that it had ratified. He recalled that the 34 Conventions ratified by Fiji were being written into national law, which was quite a challenge for a small island State in the current global economic crisis. Nevertheless, Fiji was undertaking the reforms already outlined, which would be underpinned by a modern, inclusive and democratic Constitution in early 2013.
224. Turning to the three issues outlined in document GB.316/INS/8 he indicated that his Government had made significant progress on the first and third items. Mr Antony was currently present at the Governing Body as a Worker substitute member. His Government had expressed its willingness to re-engage with the ILO direct contacts mission and had proposed that it take place in early April 2013. Its terms of reference would be finalized in consultations between the Government and the ILO. He noted a suggestion to hold the meeting earlier and would take up that point with his Government.
225. Finally, he insisted that, during the five-month period between 11 April 2012 and 27 September 2012, the Fijian Employment Relations Advisory Board had met three times and its subcommittee had met eight times, contrary to the assertion in the draft resolution that no meetings had been held. Furthermore, he rejected some of the statements made by the Employer Vice-Chairperson, citing in particular the reduction of the minimum wage, which he said had not come about due to pressure from certain employers.
226. *A Worker member from Fiji* expressed his fellow workers' reservations concerning the review process, which was taking place in the absence of freedom of the media, freedom of speech and freedom of assembly, as that effectively prevented the Fijian people from having free and open debates on the Constitution and other issues. He expressed concern about various non-negotiable issues that the Government had included in the new Constitution, such as immunity for all military personnel from 2006 until the first sitting of the new Parliament. The immunity would cover not only those responsible for overthrowing the democratically elected Government, but also those involved in past and future criminal activities, including violations of human rights and freedom of association. The scope of immunity should be determined by the people of Fiji and not by the Government. He also insisted that the new Constitution should be subject to a referendum.
227. With regard to corruption and transparency, he agreed that corruption needed to be eliminated and that there should be transparency in Government. However, he had not seen any evidence of those principles being applied and pointed to the public perception that corruption was now worse than before.
228. Responding to the Government's assurances with regard to labour standards, he pointed out that not only had no action been taken, but more restrictions had been imposed on trade unions and workers in Fiji. He recalled that past assurances and deadlines had not been respected and questioned the seriousness of those undertakings. Nevertheless, he hoped that the latest assurances would bear fruit and reaffirmed the willingness of the trade unions to cooperate with the Government to ensure that core labour standards and the report on Case No. 2723 were respected.
229. Turning to the ILO direct contacts mission, the speaker recalled that it had not been the first time that an international mission had been expelled from Fiji, despite the existence of previously agreed terms of reference and he hoped that the latest invitation would be respected. Furthermore, he insisted that the terms of reference should draw upon the report of the Committee on Freedom of Association and not be decided by the Government. He was in favour of bringing forward the date of the mission so that it could complete its work and present a report at the 317th Session of the Governing Body in March 2013.

- 230.** In conclusion, he concurred with the Employer Vice-Chairperson's statement concerning the reduction of the minimum wage.
- 231.** *Speaking on behalf of the EU and its Member States*, a Government representative of Cyprus said that Albania, Bosnia and Herzegovina, Croatia, Iceland, Republic of Moldova, Montenegro, Norway, Serbia and The former Yugoslav Republic of Macedonia aligned themselves with the statement. She noted the launch of a political process in Fiji that envisaged a new Constitution by 2013 and parliamentary elections by 2014. Stressing the importance of human rights, freedom of association and the role of the ILO in safeguarding international labour standards, the EU regretted the premature expulsion of the ILO direct contacts mission and encouraged the Government of Fiji to engage with the ILO in organizing a new mission. She concluded by noting that the present resolution should not create a precedent and that the appropriate forum for discussing such cases was the Committee on the Application of Standards.
- 232.** *Speaking on behalf of Australia and New Zealand*, a Government representative of Australia expressed concern over the labour and human rights situation in Fiji and deplored the early departure of the direct contacts mission, which had prevented it from fulfilling its mandate. He appreciated the work of the mission team, the ILO Office in Suva and ILO staff in organizing the mission. He urged the Government of Fiji to accept another mission under the original terms of reference before the 317th Session of the Governing Body in March 2013, and reaffirmed the countries' support for the restoration of core labour rights to the Fijian people. Moreover, he called on the Government of Fiji to take further steps to ensure free and fair elections in order to restore democracy to the country.
- 233.** *A Government representative of India* noted that, until recently, the Government of Fiji and the trade unions had enjoyed a good relationship. He welcomed the relaxation of the travel restrictions on Mr Antony and the steps being taken by the Government to settle pending issues with trade unions.
- 234.** *A Government representative of the United States* expressed deep concern about the ongoing violations of trade union rights in Fiji and the early departure of the direct contacts mission. His Government believed that an important opportunity for finding solutions to the issues raised before the ILO's supervisory bodies had been squandered. He fully supported the establishment of the terms of reference for the mission on the basis of well-established procedures for ILO direct contacts and endorsed their appropriateness for any future mission to Fiji.
- 235.** He expressed reservations as to whether a resolution was the most appropriate means of registering the Governing Body's concerns, but nevertheless fully supported the content of the resolution.
- 236.** *Speaking on behalf of the Africa group*, a Government representative of Kenya regretted that the direct contacts mission had been unable to fulfil its mandate. She encouraged the Government of Fiji and the ILO to remedy that situation as a matter of urgency.
- 237.** *The Chairperson* said that it had been a rich and promising debate and that the Office had taken note of the guidance provided.

Outcome

238. *The Governing Body adopted the following resolution:*

**Resolution submitted by the
Workers' group with the support
of the Employers' group**

**ILO Governing Body resolution on
the trade union situation in Fiji**
(316th Session – November 2012)

The Governing Body of the International Labour Office,

Noting with great concern that the Government of Fiji stopped the International Labour Organization (ILO) from carrying out a direct contacts mission in September 2012 to verify complaints regarding freedom of association,

Noting that the Government presented the mission with new and unacceptable terms of reference which differed from those agreed prior to the mission and, ultimately instructed the mission to leave Fiji immediately,

Recalling that the ILO direct contacts mission was undertaken pursuant to the recommendations of the ILO Committee on Freedom of Association (Case No. 2723, Interim report, November 2011) as well as the resolution on the trade union situation in Fiji, adopted at the 15th ILO Asia and the Pacific Regional Meeting in December 2011,

Noting that Fijian trade unionists have recently been detained, harassed and continue to be prosecuted on allegedly specious grounds,

Noting that since 2009, the Government has issued executive decrees that sharply curtail trade union and labour rights in both the public and private sectors; have deprived Fijian workers of their fundamental rights guaranteed by ILO Conventions Nos 87 and 98; eliminated access to judicial review and redress for past, present and future violations; and disallowed the right to question the legality of the decrees themselves,

Noting that these were made without consultation with Fijian social partners,

Noting that while the Public Emergency Regulations of 2009 were repealed in 2012, they were replaced with the Public Order Amendment Decree (POAD) of 2012, which continues to require the social partners to seek the consent of the authorities prior to holding meeting,

Noting that the POAD contains additional provisions that trade unions fear could sharply curtail their right to freely associate and to otherwise carry out trade union activity,

Recalling furthermore that the Essential National Industries Decree in 2011 has cancelled union registrations and requires all trade unions in critical corporations (including finance, telecoms, civil aviation, and all foreign banks and public utilities sectors) to be re-registered under the Decree, and that the Decree further prevents trade unions from electing full-time trade union officials into office and only allows for the establishment of bargaining units with the prior approval of the Prime Minister,

Concerned that these decrees have had an impact on trade unions regarding both their membership and finances; and that, following the decrees, union recognition and the continued observation of collective agreements has been questioned,

Regretting that, while the Government invited Fijian trade union representatives to one meeting to discuss potential labour law reforms, since then no meeting has been held,

Considering that the above actions will continue to have adverse consequences for investment and employment in Fiji and further noting the damage already done to its standing in the region and the international community,

Recalling further the deep concern expressed and the actions recommended by the tripartite ILO constituents in the region as reflected in the resolution adopted at the ILO Asia and the Pacific Regional Meeting in Kyoto in December 2011, which has not been implemented by the Fiji Government.

1. Deeply regrets, in view of these serious concerns, the actions of the Fiji Government; and
2. Instructs the Director-General to:
 - (a) work with the Fiji Government to seek its acceptance of the direct contacts mission under the previously agreed terms of reference, which are based on the conclusions and recommendations of the ILO Committee on Freedom of Association in Case No. 2723;
 - (b) urge that the Government, together with the social partners, find appropriate solutions in law and in practice which are in conformity with freedom of association principles;
 - (c) continue to closely monitor the situation in Fiji and work to safeguard the human and labour rights of Fijian workers; and
 - (d) report to the Governing Body at its 317th Session (March 2013) on action taken and developments regarding the trade union situation in Fiji.

Ninth item on the agenda

Reports of the Committee on Freedom of Association

365th Report (GB.316/INS/9/1)

239. *The Chairperson of the Committee* stated that the Committee had taken note of the 365th and 366th Reports which included 181 pending cases, of which 32 had been examined on their merits. Urgent appeals had been made in the following cases: Case No. 2655 (Cambodia), Case No. 2912 (Chile), Cases Nos 2924 and 2933 (Colombia), Cases Nos 2714, 2715 and 2925 (Democratic Republic of the Congo), Case No. 2753 (Djibouti), Case No. 2786 (Dominican Republic), Cases Nos 2684 and 2928 (Ecuador), Cases Nos 2909, 2923 and 2930 (El Salvador), Case No. 2914 (Gabon), Cases Nos 2708, 2811 and 2869 (Guatemala), Case No. 2913 (Guinea) and Case No. 2740 (Iraq). Despite the time that had elapsed, the governments concerned had not provided the requested observations. Therefore, the Committee appealed to the governments in question to submit their observations as a matter of urgency. It noted with satisfaction that there had been developments in five cases, drawing attention to Case No. 2924 (Colombia), where a constitutional court ruling had led to the reinstatement of 50 trade union members and officers. In Case No. 2701 (Algeria), the Committee noted with satisfaction the registration of the National Union of Vocational Training Workers. In Cases Nos 2638 and 2757 (Peru), 12 workers had been reinstated and a constitutional court judgment had given state workers with administrative service contracts the right to organize and strike. Regarding serious and urgent cases, the Committee drew attention to Case No. 2906 (Argentina), involving the murder of four workers and the injury of two others. In such cases, it was essential to institute an independent judicial inquiry in order to determine responsibility, punish those responsible and prevent reoccurrence. In Case No. 2318 (Cambodia), the Committee regretted the absence of further information on the murders of three trade union leaders in 2004 and 2007, including information on the existence of independent investigations. Earlier that day, the Chairperson of the Committee had met with the Director-General of the Labour Ministry of Cambodia and had been promised that the information would be provided as soon as possible. In Case No. 2516 (Ethiopia), the Committee expressed its deep regret that the teachers' organization (NTA) had still not been registered, and urged the Government to do so. In Case No. 2723 (Fiji), the Committee serious concern that while the Government of Fiji had accepted a direct contacts mission to the country, it had not allowed the mission to continue its work and had

forced it to leave. The Committee hoped that the Government would rapidly re-establish dialogue so that the mission could return to the country. Independent investigations into allegations of physical assault, harassment and intimidation of trade union leaders and members should be conducted. The Committee further urged the Government to take the necessary measures to ensure that all criminal charges of unlawful assembly brought against Mr Nitendra Goundar and Mr Daniel Urai from the tourism union were dropped. The Committee noted that a subcommittee of the Employment Relations Advisory Board had agreed to repeal the majority of the provisions in violation of Conventions Nos 87 and 98, and the principles of freedom of association and collective bargaining, by taking measures to align them with those principles. Following the adoption of a public service decree in 2011, the Committee requested the Government to provide information on the relevant mechanisms that enabled public servants to file individual and collective grievances, and to indicate the results of the tripartite review of the government decrees that dealt with freedom of association rights in the public service. In Case No. 2664 (Peru), which concerned the murder of a trade union member in 2008, the Committee expected that further investigations would explain why no arrests had been made.

240. *The Employer spokesperson* said that Employer members had considered 36 cases and had participated in formulating conclusions for 32 of them; the remaining four cases had been deferred due to the late arrival of substantive government replies.
241. In a considerable number of cases, Employer members had addressed serious issues that had only been responded to in part by the government in question. That fact made it difficult to assess the merits of complaints, especially those involving the alleged conduct of an enterprise. He urged governments to submit full reports and enterprises to cooperate when complaints were brought to their attention. Employer members had also considered a number of cases concerning human resources and believed that the majority of those cases should be dealt with at either the local or national level. To that end, he encouraged governments to set up appropriate machinery where none existed and called on complainants to avail themselves of it. He emphasized that the Committee was not an appellate body for local labour disputes and that attempts to invoke the jurisdiction of an international organization for human resource disputes had the effect of diverting resources from major infractions of freedom of association.
242. He took note of a number of serious and urgent cases involving threats and the infringement of personal and civil liberties, human rights and freedom of association. He called for such acts to be remedied with immediate effect.
243. He drew the attention of the Governing Body to Case No. 2820 (Greece) in which the Committee had been able to reach substantive conclusions on a complaint concerning the negative impact of austerity measures on collective bargaining rights. The Committee's mandate did not extend to an assessment of a government's economic or social policy but solely to freedom of association or collective bargaining issues. The Committee had recalled that it was consistent with freedom of association principles to introduce emergency economic stabilization measures, provided that they were temporary, proportionate, necessary and the result of social dialogue. Given that the economic crisis in Greece was set to continue, he hoped that the Committee's conclusions and recommendations would inform any further action taken by the Government. The Government should follow up on the implementation of the Committee's recommendations and keep it informed of developments.
244. Case No. 2723 (Fiji) was also a serious and urgent case, especially following the recent expulsion of the direct contacts mission to the country. The Committee expressed deep concern at the actions of the interim Government of Fiji and continued to call on it to bring its practices and legislation into conformity with freedom of association principles. The

Committee urgently sought the re-establishment of dialogue through a direct contacts mission where it could exercise its mandate without hindrance. The appeal to the Government was genuine and had been made in the spirit of independent fact-finding and the restoration of internationally recognized rights.

- 245.** He also drew attention to Case No. 2905 (Netherlands) concerning government decrees. The complaint had been presented by an association of employers and highlighted the risks associated with the Government seeking to use its executive power to interfere in collective bargaining matters. The Committee asked to be kept informed of any legal proceedings resulting from the decrees.
- 246.** The Employer members acknowledged the cases in which governments had cooperated with the Committee by providing replies. However, the Committee continued to face a large backlog. Delayed replies could lead to complaints not being dealt with until two years after the alleged events had occurred. Complainants should provide sufficient detail to enable governments to present relevant and up-to-date replies.
- 247.** *The Worker spokesperson* noted with satisfaction that a trade union in Algeria had finally been registered after ten years. Furthermore, in Case No. 2878 (El Salvador), it had once again become possible to collect members' dues. In Case No. 2356 (Colombia), the 51 workers' union officials who had been dismissed in 2004 had finally been reinstated. Moreover, in Case No. 2086 (Paraguay), a worker who had been imprisoned had been released, albeit temporarily.
- 248.** In Case No. 2820 (Greece), the mandate of the Committee in no way extended to a political or economic debate but to ensuring respect for social dialogue based on the principles of freedom of association and collective bargaining. Unfortunately, that did not appear to be the case in Greece at the present time. However, the situation in the country had not prevented the Committee from drawing upon its jurisprudence to call on the Greek authorities to respect free and voluntary collective bargaining, as had been reflected in its conclusions.
- 249.** In the Republic of Korea and Fiji, the Committee had received reports of governmental interference in the collective bargaining process and the systematic restriction of freedom of association. While the Worker members noted with satisfaction that the trade union officials who had been arrested in Fiji had been released and that the state of emergency had been lifted, they deplored the attitude of the authorities concerning the expulsion of the ILO direct contacts mission to the country.
- 250.** Three cases in Guatemala, Case No. 2648 (Paraguay) and Case No. 2815 (Philippines) concerned dismissals and obstacles to establishing trade unions and to collective bargaining. The Committee had once again examined Case No. 2807 (Islamic Republic of Iran), concerning alleged restrictions on establishing and choosing a trade union. In Case No. 2812 (Cameroon), strikes had been suppressed. Case No. 2902 (Pakistan) concerned serious allegations regarding the use of firearms against demonstrating workers. In Case No. 2851 (El Salvador), trade union members had been arrested and dismissed for participating in a strike.
- 251.** Referring to Case No. 2758 (Russian Federation) and to Case No. 2723 (Fiji), he underlined that freedom of expression was an essential element of trade union rights and that it should be safeguarded.

- 252.** Other serious and urgent cases included Case No. 2906 (Argentina) and Case No. 2664 (Peru), which served to highlight the importance of investigations. In Case No. 2318 (Cambodia), the lack of reply from the Government was unacceptable. He called on the Government to send a reply as a matter of urgency. In Case No. 2516 (Ethiopia), the Committee was to examine serious allegations concerning the violation of freedom of association dating back to 1997.
- 253.** *A Government representative of Cambodia*, referring to paragraph 290 of the report, said that his delegation wished to provide an update on Case No. 2318. Following thorough investigations, the Appeal Court had held a hearing on 7 November 2012 and a verdict would be delivered in the near future. His Government would keep the Committee informed of further developments. As regards Case No. 2655 concerning the authority JASA, the Arbitration Council had taken a legal decision on 29 January 2011. However, the workers had filed a complaint against the employer and so the Arbitration Council could not implement the decision. Hence, both parties could, in accordance with the established legal procedure, bring the case before a general court. As regards the authority APSARA, on 12 February 2010, the employers lost an appeal against the decision of the Arbitration Council and so both parties could bring the case before a general court. As regards the Angkor Golf Resort, on 19 January 2010, the workers had decided to withdraw their complaint. The Arbitration Council subsequently closed the case without taking a legal decision.
- 254.** His Government wished to reassure the Committee of its commitment to bringing the perpetrator to justice. Legal proceedings were ongoing for all cases in the Court of First Instance, the Appeal Court or the Supreme Court. The Government itself had no influence on the decision taken by the relevant judicial body.
- 255.** *A Government representative of the Republic of Korea*, referring to paragraph 582, subparagraph (h) of the report, expressed concern that the Committee had accepted as fact the complainant's argument that the measures taken by the Government in the public sector had had a serious impact on the trade union movement, even though those measures were aimed at ensuring responsible management. Furthermore, she failed to understand how the Committee had concluded that the issuance of budgetary guidelines and the assessment of the financial soundness of the public sector had had a serious impact on the trade union movement. She drew attention to paragraph 572, which stated that the financial authorities could formulate recommendations that were in line with the Government's economic policy, and to paragraph 574, which stated that the special nature of the public service required some flexibility in the application of the principle of autonomy in collective bargaining.

Decision

- 256.** *The Governing Body took note of the introduction to the report of the Committee, contained in paragraphs 1–194, and approved the recommendations made in paragraphs: 215 (Case No. 2861: Argentina); 235 (Case No. 2870: Argentina); 261 (Case No. 2906: Argentina); 281 (Case No. 2858: Brazil); 290 (Case No. 2318: Cambodia); 301 (Case No. 2808: Cameroon); 314 (Case No. 2812: Cameroon); 356 (Case No. 2863: Chile); 408 (Case No. 2884: Chile); 429 (Case No. 2852: Colombia); 582 (Case No. 2829: Republic of Korea); 602 (Case No. 2851: El Salvador); 623 (Case No. 2871: El Salvador); 634 (Case No. 2878: El Salvador); 646 (Case No. 2879: El Salvador); 667 (Case No. 2903: El Salvador); 692 (Case No. 2516: Ethiopia); 783 (Case No. 2723: Fiji); 1003 (Case No. 2820: Greece); 1024 (Case No. 2709: Guatemala); 1063 (Case No. 2840: Guatemala); 1088 (Case No. 2872: Guatemala); 1100 (Case No. 2807:*

Islamic Republic of Iran); 1109 (Case No. 2794: Kiribati); 1123 (Case No. 2902: Pakistan); 1132 (Case No. 2648: Paraguay); 1227 (Case No. 2905: Netherlands); 1258 (Case No. 2934: Peru); 1278 (Case No. 2815: Philippines); 1289 (Case No. 2713: Democratic Republic of the Congo); 1300 (Case No. 2797: Democratic Republic of the Congo); 1401 (Case No. 2758: Russian Federation), and adopted in full the 365th Report of the Committee on Freedom of Association.

(GB.316/INS/9/1.)

366th Report (Belarus)

(GB.316/INS/9/2)

- 257.** The Chairperson of the Committee said that the 366th Report had once again reviewed the steps taken by the Government of Belarus to implement the recommendations of the Commission of Inquiry, published in 2004. Regrettably, the Government had not only failed to reply to the Committee's previous recommendations, but also to cooperate regarding new allegations of violations of freedom of association. The Committee urged the Government to be more cooperative, pointing to the difficulties affecting union registration, especially the Belarusian Independent Trade Union which had been unable to set up a union at the "Granit" enterprise, and to amend Decree No. 2, in line with the recommendations of the Commission of Inquiry. The Committee requested the Government to address the new allegations regarding anti-union interference and dismissals, and urged it to intensify social dialogue with all workers' and employers' organizations to ensure that freedom of association was guaranteed both in law and in practice.
- 258.** *The Worker spokesperson* deplored the fact that the Government of Belarus had failed to reply to the Committee's recommendations, especially since there was no evidence to suggest that the situation concerning the numerous violations of freedom of association had improved. The Worker members were of the opinion that the Governing Body should consider specific action at its meeting in March 2013.
- 259.** *A Government representative of Belarus* said that his Government would send comments regarding the company "Granit" to the Committee in the near future. It would also send that information to the Committee of Experts on the Application of Conventions and Recommendations (CEACR). The working group of the tripartite Council for the Improvement of Legislation in the Social and Labour Sphere had only received the documents from the Congress of Democratic Trade Unions (CDTU) in June 2012. As a number of the issues contained therein were unclear, the secretariat of the tripartite Council had requested additional information from the CDTU in the interests of carrying out a more accurate assessment of the situation and taking an objective decision. The process for developing a social partnership system in Belarus was ongoing. Domestic legislation and practices were being improved in accordance with the decision taken by the tripartite Council on 17 May 2012. His Government was currently drafting new legislation aimed at improving collective bargaining agreements. In December 2012, the tripartite Council would meet to examine proposals for amending the law concerning trade unions and the Labour Code. His Government was counting on the assistance of the ILO in that endeavour. During the session, his Government would engage in consultations with a view to further developing social dialogue in Belarus. It would also begin preparing for a new general agreement under the auspices of the national council on labour and social issues in 2013.

Decision

260. *The Governing Body took note of the introduction to the report of the Committee, contained in paragraphs 1–6, and approved the recommendations made in paragraph 28, and adopted in full the 366th Report of the Committee on Freedom of Association.*

(GB.316/INS/9/2.)

Tenth item on the agenda
**Report of the Board of the International
Institute for Labour Studies**
**54th Session of the Board
(GB.316/INS/10)**

261. *The Chairperson introduced the report and confirmed that the Board of the Institute had held its 54th Session in Geneva on 9 November, and that the Director-General of the ILO had chaired the meeting.*

Outcome

262. *The Governing Body took note of the report.*

(GB.316/INS/10.)

Eleventh item on the agenda
**Report of the Board of the International
Training Centre of the ILO, Turin**
**74th Session of the Board
(Turin, 1–2 November 2012)
(GB.316/INS/11)**

263. *A Worker member from South Africa said that the Turin Centre was not delivering sufficient capacity to its constituents and that the lack of non-earmarked funding in 2012 had led to a reduction in Worker, Employer and Government participants. The Turin Centre needed new donors providing non-earmarked funding in order to play its role as the training arm of the ILO. The private donor approach was not meeting the needs of the workers. He looked forward to the outcome of the meeting of the Director-General with the management in Turin and staff, and hoped that the Staff Union's concerns would be addressed.*

Outcome

264. *The Governing Body took note of the report.*

(GB.316/INS/11.)

Twelfth item on the agenda

Report of the Working Party on the Functioning of the Governing Body and the International Labour Conference (GB.316/INS/12)

Decision

265. The Governing Body accepted the proposed timetable set out in the appendix to document GB.316/INS/12 and requested the Office:

- (a) to submit to the Governing Body at its 317th Session (March 2013) a detailed plan for the implementation at the 102nd Session (June 2013) of the Conference, on a trial basis, of those options on which a consensus has been reached in the Working Party, together with an assessment of the cost and legal implications of those proposals;*
- (b) to prepare a background document and organize informal tripartite consultations on further measures to be submitted to the Working Party in March 2013.*

(GB.316/INS/12, paragraph 23.)

Thirteenth item on the agenda

Report of the Working Party on the Social Dimension of Globalization (GB.316/INS/13)

Outcome

266. The Governing Body took note of the report.

(GB.316/INS/13.)

Fourteenth item on the agenda

Report of the Director-General

(GB.316/INS/14, GB.316/INS/14(Add.)
and GB.316/INS/14(Add.2))

Obituaries

Decisions

267. *The Governing Body invited the Director-General to convey its condolences to the Government of Brazil and to the family of Mr Arnaldo Lopes Sussekind; to the President of the Association of Lesotho Employers and to the family of Mr Thabo Makeka; to the President of APINDO and the family of Pak Djimanto; to the Federation of Kenya Employers and to the family of Mr Tom Diyu Owuor; and to the SNIMCMA and to the family of Ms Anna Da Conceição Pedro Garcia.*

(GB.316/INS/14, paragraphs 6, 12 and 16, and GB.316/INS/14(Add.2), paragraphs 5 and 9.)

Membership of the Organization, progress in international labour legislation and internal administration

268. *Speaking on behalf of the Africa group, a Government representative of Kenya welcomed the Republic of South Sudan and the Republic of Palau as the 184th and 185th member States of the International Labour Organization, respectively.*

269. *The Worker Vice-Chairperson and a Government representative of Egypt endorsed those remarks.*

270. *The Worker Vice-Chairperson also welcomed the latest ratifications of Conventions, in particular those pertaining to the Maritime Labour Convention, 2006, which would enter into force on 20 August 2013.*

Outcome

271. *The Governing Body took note of the report.*

(GB.316/INS/14 and GB.316/INS/14(Add.))

First Supplementary Report: Documents submitted for information only (GB.316/INS/14/1)

Outcome

- 272.** *The Governing Body took note of the information contained in the documents listed in the appendix.*

(GB.316/INS/14/1, paragraph 4.)

Second Supplementary Report: Follow-up to Governing Body decisions (GB.316/INS/14/2)

- 273.** *The Chairperson* drew attention to the inclusion of an additional column detailing obstacles or delays in the execution of decisions. He invited the Governing body to comment on the report.
- 274.** There was broad agreement in the Governing Body that the report was a useful monitoring tool, that the additional column on the implementation status was helpful and that completed items should be removed from the report.
- 275.** *The Worker Vice-Chairperson* expressed concerns about the follow-up action being taken by the Office on several earlier decisions. With regard to GB.313/POL/3 on the ILO–G20 training strategy, he considered that the approach reported in the document was narrow and too focused on the private sector with no apparent interaction with trade unions. He would also have liked to have seen a broader agenda, based on the Human Resources Development Recommendation, 2004 (No. 195). It was disappointing that funding had not yet been secured for the tripartite meeting of experts proposed in GB.312/POL/6, to examine private compliance initiatives in the light of international labour standards. With regard to GB.312/POL/3, he noted that the social partners had raised concerns over the Office strategy in giving effect to the conclusions concerning the promotion of sustainable enterprises which had been adopted at the International Labour Conference in 2007. However, the information in the current document did not adequately reflect those criticisms.
- 276.** *Speaking on behalf of the Africa group*, a Government representative of Kenya proposed that the implementation status should indicate progress by means of required actions and timelines for completion.

Decision

- 277.** *The Governing Body requested the Office to prepare for its 317th Session (March 2013) a supplementary report on the follow-up to the decisions adopted since November 2011, taking into account the guidance provided concerning the format of future reports, in particular the presentation of decisions which have been fully implemented.*

(GB.316/INS/14/2, paragraph 7.)

Third Supplementary Report: Appointment of two Deputy-Directors-General and one Assistant Director-General (GB.316/INS/14/3)

Outcome

278. *The Governing Body noted the appointments of Mr Greg Vines as Deputy Director-General for Management and Reform, of Ms Sandra Polaski as Deputy Director-General for Policy, and of Mr Yoshiteru Uramoto as Regional Director of the ILO Regional Office for Asia and the Pacific, at the Assistant Director-General level, made by the Director-General, after having duly consulted the Officers of the Governing Body, and invited Mr Vines and Mr Uramoto to make and sign the prescribed declarations of loyalty as provided under article 1.4(b) of the ILO Staff Regulations.*

(GB.316/INS/14/3, paragraph 5.)

279. Pursuant to article 1.4(b) of the Staff Regulations, Mr Greg Vines, Deputy Director-General for Management and Reform and Mr Yoshiteru Uramoto, Regional Director of the ILO Regional Office for Asia and the Pacific, made and signed the prescribed declaration of loyalty.

Fourth Supplementary Report: Financial arrangements for the Meeting of Experts on Forced Labour and Trafficking for Labour Exploitation (Geneva, 11–15 February 2013) (GB.316/INS/14/4)

Decision

280. *The Governing Body decided that the cost of the Meeting of Experts on Forced Labour and Trafficking for Labour Exploitation, estimated at US\$302,000, be financed, in the first instance, from savings in Part I of the budget or, failing that, through Part II, on the understanding that, should this subsequently prove impossible, the Director-General would propose alternative methods of financing at a later stage in the biennium.*

(GB.316/INS/14/4, paragraph 6.)

Fifteenth item on the agenda

Reports of the Officers of the Governing Body

First report: Complaint concerning the non-observance by Bahrain of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), made by delegates to the 100th Session (2011) of the International Labour Conference under article 26 of the ILO Constitution (GB.316/INS/15/1(Rev.))

- 281.** *The Chairperson* drew attention to the draft decision in paragraph 17, recommended by the Officers of the Governing Body, to defer a decision on the complaint to the 317th Session of the Governing Body in March 2013.
- 282.** *The Worker Vice-Chairperson* recalled that in November 2011 the Government of Bahrain had undertaken to set up a tripartite structure that would meet weekly and report back to the Office on a regular basis. That had proved a complete failure. In March 2012, at the 313th Session of the Governing Body, the Workers' group had agreed, exceptionally, to defer consideration of the complaint on the basis that the new tripartite structure would be able to resolve the question of the outstanding dismissals. However, several hundred of the workers dismissed from their jobs had not been reinstated, or had not been allowed to return to the same job as before. Arrests and harassment of trade unionists were continuing, and there were new cases of dismissals and continuing reprisals against workers and their representatives. The tripartite agreement must be fully implemented, without further delay, and there must be no new violations of Convention No. 111. At present, there was every indication that the situation was actually deteriorating, with increased discrimination against workers. The personal safety of trade union leaders in Bahrain must be guaranteed and respected. The draft decision, supported by the Workers' group, was intended as a clear and final message to the Government of Bahrain that the situation would no longer be tolerated and that it must take immediate action to fulfil its commitment to respect international labour standards, especially Convention No. 111.
- 283.** *The Employer Vice-Chairperson* said that wide-ranging discussions had taken place in an endeavour to resolve the outstanding problems. Since June 2012, over 90 per cent of the dismissed workers had been reinstated in their jobs. Although the situation was not yet completely satisfactory, the tripartite approach had proved a success, and the Government was cooperating both with the social partners and with the Office. The Employers' group urged it to explore all possible avenues so that the matter could be brought to a satisfactory conclusion by the 317th Session of the Governing Body in March 2013.
- 284.** *A Government representative of Bahrain* said that his Government had been pursuing a stable and evolving relationship with the ILO. It was consolidating the process of social dialogue and was guaranteeing the independence of workers' organizations and the right to freedom of association. It had recently hosted two ILO missions, which had contributed to achieving significant results in the ongoing social dialogue. The events of February and March 2011 had had a severe impact on the economy of the country and on employers and workers, but calm had now been restored, over 95 per cent of the dismissed workers had been able to return to their jobs, and the Government had worked to meet the standards set by the ILO. Some individuals remained dissatisfied because there had been delays in

tackling their problems. However, his Government would continue to support all efforts by the social partners, on the basis of the tripartite agreement, to resolve outstanding issues, promote labour standards and secure decent work for all.

- 285.** *A Worker representative of Bahrain* said that unfortunately, no redress had yet been found for those workers who had been deprived of their employment and, in addition, lacked the rights to social protection enshrined in international conventions, and even the right to citizenship of the country in which they were living and working. The tripartite agreement was not being respected. The workers' organizations of Bahrain welcomed the efforts of the Office and of the ILO to find a way forward and to secure the right of workers to organize, assemble and go on strike. However, workers in Bahrain were being treated like machines. Many were separated from their families, deprived of their wages and of social protection. Even those dismissed workers who had returned to work were faced with discrimination, and the workers' organizations were persecuted. In Bahrain, there was no recognition of workers' rights, especially the right to decent work. The workers' organizations were being told that consultations and dialogue were taking place, but their own experience was of violence and abuse on the streets. They could not express their views without fear. Many young people were losing hope in the future. However, the trade union movement in Bahrain rejected violence and was anxious to pursue dialogue. He called upon the ILO, as a neutral body, to help find a lasting solution to secure the rights of the workers and bring about social justice.
- 286.** *An Employer representative of Bahrain* said the Government had expressed a sincere intention to achieve the reinstatement of the dismissed workers. The report before the Governing Body indicated that progress had been made. An ILO technical mission to Bahrain had met with representatives of the employers and the workers, and had studied the facts on the ground.
- 287.** The Minister of Labour had said that 98 per cent of the dismissed workers had been reinstated, and that was a very positive sign. Further efforts were being promised by the Government, in conjunction with the social partners. He hoped that the work now being done, with the technical assistance of the ILO and through tripartite discussions with the social partners, would bring about a new and better situation by March 2013.
- 288.** *A Government representative of India* observed that the Government of Bahrain had taken a number of steps to address the problem of the workers dismissed from their jobs in the spring of 2011. In March 2012 a tripartite agreement had been signed between the Government, the General Federation of Bahrain Trade Unions (GFBTU) and the Bahrain Chamber of Commerce and Industry (BCCI). Since then the Government had reviewed all the cases brought to it by the GFBTU, and of about 5,000 workers who had been suspended from their jobs or dismissed, about 98 per cent had been reinstated or re-employed, or had received bona fide offers to settle their claims. The cases which still had to be resolved were those pending before the courts or those of workers employed in small and medium-sized enterprises, over which the Government had little influence. He was however encouraged by the progress made by Bahrain in implementing the recommendations of the Bahrain Independent Commission of Inquiry. All countries must respect the rights of workers and promote a climate of trust in which problems could be addressed. In view of the substantial progress achieved in Bahrain, establishing an ILO Commission of Inquiry would duplicate the efforts already under way inside the country.

- 289.** *A Government representative of Thailand* expressed satisfaction at the continued efforts by the Government of the Kingdom of Bahrain to undertake concrete measures to resolve the cases brought forward by the GFBTU. He welcomed the tripartite approach taken by the Government in consultation with the ILO, and the reinstatement of almost 99 per cent of dismissed workers. His delegation believed that the Governing Body should recognize the willingness demonstrated by Bahrain to address the pending issues and saw no need for the Governing Body to take further action related to the complaint. He conveyed his Government's hope that the complaint would be removed from the agenda of the Governing Body.
- 290.** *A Government representative of Egypt* welcomed the positive attitude taken by the Government of Bahrain. While it was important to acknowledge the workers' allegation that some dismissed workers had not yet been reinstated, it was equally important to recognize that 98 per cent of those cases had been resolved. He appealed to all parties to support efforts to continue on the path of social dialogue.
- 291.** *A Government representative of Qatar* endorsed the statement of the Government representative of Egypt recognizing the willingness of the Government of Bahrain to cooperate with other parties in supporting ILO mechanisms and instruments. The reinstatement of 98 per cent of the dismissed workers was proof of that. She expressed gratitude to the ILO for its untiring efforts to provide advisory and technical services to the stakeholders. She urged the ILO to consider the progress made, the goodwill and sincerity shown by the Government of Bahrain, and urged that more time be given to Bahrain to settle the conflict. She also expressed support for Bahrain's request to have the complaint withdrawn.
- 292.** *Government representatives of Algeria, China, Pakistan, Sudan, Sri Lanka and the United Arab Emirates* welcomed the efforts and goodwill of Bahrain to find a solution. Convinced that the Government of Bahrain was on the right path, their delegations also supported the Government of Bahrain's appeal to turn the page on the issue. They stressed the need for national reconciliation and emphasized the importance of pursuing tripartite dialogue, regardless of the difficulties.
- 293.** *A Government representative of Sri Lanka* said that due to the complex nature of the remaining cases, and in recognition of the efforts to address them, his delegation believed that it was not appropriate for the Governing Body to appoint a Commission of Inquiry at that time. He called upon the Government of Bahrain to resolve the remaining cases.
- 294.** *A Government representative of the United States* noted for the record that his delegation fully endorsed the proposal of the Officers of the Governing Body, that a decision on the pending article 26 complaint against Bahrain should be deferred until the 317th Session of the Governing Body in March 2013.
- 295.** *A Government representative of Bahrain* expressed his gratitude to all those who had recognized his Government's efforts and the progress made. Emphasizing his country's commitment to workers' rights and its achievements in the area of labour law, he declared unacceptable all that had been said about the suffering of individual workers in Bahrain.
- 296.** Concerning the allegations by the Worker representative that there were 700 irregular or non-regularized cases, he said that that could be checked against the findings of the mission that had visited Bahrain in October. He affirmed that it would take only one such case for the Government of Bahrain to be concerned. His Government was committed to ensuring that any problem between employers and workers would be dealt with fairly. He urged all parties to come together in an enabling environment, with open hearts and outstretched arms, and assured all workers that their rights would be respected.

297. He expressed gratitude to the ILO for its cooperation and determination to be fair and candid in its assessment of the state of progress with regard to the case.
298. *The Employer Vice-Chairperson* said that, without entering into the substance of the issue nor the document before the Governing Body, which his group supported, his group had concerns of a technical nature regarding paragraph 13. His group wished to withhold its views on that aspect, for discussion at an appropriate time in the future.
299. *The Chairperson* highlighted the goodwill and willingness shown by all sides, which, if it continued, could lead to the swift resolution of the situation. He noted the concerns of the Employers' group, which did not challenge the adoption of paragraph 17. The draft decision was adopted.

Decision

300. *The Governing Body, on the recommendation of its Officers:*

- (a) *requested the Government to provide a report on the effective implementation of the Tripartite Agreement concerning the complaint signed by the tripartite constituents of Bahrain on 11 March 2012 and to report to the Governing Body at its 317th Session (March 2013) on the progress made to implement fully its provisions;*
- (b) *requested the Office to take the necessary measures to provide all the technical assistance necessary to the tripartite constituents, if requested by the Government or the organizations that signed the Agreement, the GFBTU or the BCCI, to ensure the effective implementation of the Tripartite Agreement, to take measures to promote a climate of genuine industrial relations, and to report to the Governing Body at its 317th Session on the progress made; and*
- (c) *on that basis, deferred its decision on the complaint to its 317th Session (March 2013).*

(GB.316/INS/15/1(Rev.), paragraph 17.)

Second report: Complaint concerning non-observance by Guatemala of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), made by delegates to the 101st Session (2012) of the International Labour Conference under article 26 of the ILO Constitution

(GB.316/INS/15/2)

301. *The Ambassador of Guatemala* said that the new Government that had taken office in January 2012 was pursuing an agenda of change designed to breathe new life into the Peace Accord of 1996. Its commitment to fundamental labour principles and rights had already produced significant results. One of its top priorities was to give effect to international labour standards and to combat impunity. To that end, the budget of the Ministry of Labour had been increased by 30 per cent and a coordination mechanism had

been set up between the executive and judicial branches. A 20 per cent increase in the budget of the Public Prosecutor's Office had enabled the latter to conduct more investigations and to settle more cases of violence against trade union members, which, in turn, had led to a drop in such violence.

- 302.** While her Government would have liked the Officers of the Governing Body to have given it more time to put its policy into practice by waiting a year before declaring the complaint receivable, or by establishing a cooperation mechanism, it would nevertheless be pleased to provide any information that the ILO might require. It also invited the Director-General and the Director of the International Labour Standards Department (NORMES) to visit the country as a token of support for the Government's efforts to secure full compliance with Convention No. 87.
- 303.** *The Worker Vice-Chairperson* said that although a new Government had taken office, the situation had not changed for workers, because trade union members were still being murdered. The persons responsible for the violations of Convention No. 87 were still evading justice. The Memorandum of Understanding for the implementation of the ILO Technical Cooperation Framework should not be used as an excuse for delaying the complaint process. The Workers therefore supported the draft decision.
- 304.** *The Employer Vice-Chairperson* said that while he welcomed the Guatemalan Government's readiness to cooperate with the ILO, Convention No. 87 embodied fundamental principles that had to be respected. The violations of that Convention which formed the subject of the complaint were of a serious nature and therefore had to be dealt with accordingly. He hoped that by March 2013, the Government would have taken steps to ascertain the facts, to ensure full compliance with Convention No. 87 and to respond to workers' concerns with regard to past events. The Employers supported the draft decision.
- 305.** *Speaking on behalf of GRULAC*, a Government representative of Colombia regretted that the request for deferral of consideration of the complaint's admissibility and the proposal for an alternative mechanism had been rejected. Guatemala should have been allowed enough time for technical assistance to bear fruit. Its Government had already taken a number of steps that sought, as a matter of priority, to promote and protect fundamental principles and rights at work, especially freedom of association and collective bargaining, as well as to combat impunity. GRULAC asked the Office to provide the Guatemalan Government with the requisite assistance in order to achieve the objectives set in tripartite consultations. GRULAC recognized the Guatemalan Government's efforts to promote social dialogue and it called on the ILO to help the Government and the social partners to move forward on the basis of mutual trust and good labour relations.
- 306.** *A Government representative of the Russian Federation* said that the measures taken by the Guatemalan Government showed that it was addressing the issues raised in the complaint.
- 307.** *The Ambassador of Guatemala* drew attention to the fact that the events forming the basis of the complaint had taken place some 20 years earlier. The Government recognized its duty to ensure that justice was done and would work tirelessly to eradicate the root causes of the complaint.

Decision

308. *The Governing Body, on the recommendation of its Officers:*

- (a) *requested the Director-General to transmit the complaint to the Government;***

- (b) *invited the Office to obtain relevant information from the Government and employers' and workers' organizations of Guatemala, including the Memorandum of Understanding signed on 10 October 2012 and the report of the high-level mission conducted in May 2011, and to report to the Governing Body at its 317th Session (March 2013); and*
- (c) *placed that issue on the agenda of its 317th Session in order to decide whether further action on the complaint was required in the light of the information provided by the Office in connection with paragraph (b).*

(GB.316/INS/15/2, paragraph 8.)

Third report: Closing date of the International Labour Conference (GB.316/INS/15/3)

Decision

- 309. *On the recommendation of its Officers, the Governing Body decided that as from the next session of the International Labour Conference in June 2013, the closing ceremony be scheduled on the evening of the third Thursday of the session.*

(GB.316/INS/15/3, paragraph 4.)

Fourth report: Meeting of Experts on Forced Labour and Trafficking for Labour Exploitation (Geneva, 11–15 February 2013) (GB.316/INS/15/4)

Decisions

Composition

- 310. *On the recommendation of its Officers, the Governing Body approved the composition formula for that Meeting of eight experts nominated after consultations with Governments, eight experts nominated after consultations with the Employers' group and eight experts nominated after consultations with the Workers' group.*
- 311. *The Governing Body noted that, in order to obtain the Government nominations, the Director-General intended, after consultation with the Regional Coordinators, to approach the governments of eight countries. A reserve list would also be established which would include the governments of eight other countries.*

(GB.316/INS/15/4, paragraph 7.)

Agenda

312. *On the recommendation of its Officers, the Governing Body approved the agenda of the Meeting, which was to formulate recommendations to the Governing Body as to whether there was scope for standard setting to complement the ILO's Forced Labour Convention, 1930 (No. 29), and the Abolition of Forced Labour Convention, 1957 (No. 105). The topics to be covered had been identified in the Framework for Action, namely: (i) prevention of forced labour; (ii) victim protection, including compensation; and (iii) human trafficking for labour exploitation.*

(GB.316/INS/15/4, paragraph 9.)

Invitation of intergovernmental organizations

313. *On the recommendation of its Officers, the Governing Body authorized the Director-General to invite the following intergovernmental organizations to be represented at the Meeting as observers:*

- *Council of Europe;*
- *International Organization for Migration (IOM);*
- *Office of the United Nations High Commissioner for Human Rights (OHCHR); and*
- *United Nations Office on Drugs and Crime (UNODC).*

(GB.316/INS/15/4, paragraph 11.)

Invitation of non-governmental organizations

314. *On the recommendation of its Officers, the Governing Body authorized the Director-General to invite the following non-governmental organizations to be represented at the Meeting as observers:*

- *Anti-Slavery International (ASI); and*
- *Global Alliance against Traffic in Women (GAATW).*

(GB.316/INS/15/4, paragraph 13.)

Fifth report: Representation alleging non-observance by Spain of the Termination of Employment Convention, 1982 (No. 158), submitted under article 24 of the ILO Constitution by the Trade Union Confederation of Workers' Committees (CC.OO.) and the General Union of Workers (UGT)
(GB.316/INS/15/5)

Decision

315. *The Governing Body decided that the representation was receivable.*

(GB.316/INS/15/5, paragraph 5.)

Sixth report: Representation alleging non-observance by the Netherlands of the Labour Inspection Convention, 1947 (No. 81), the Labour Inspection (Agriculture) Convention, 1969 (No. 129), and the Occupational Safety and Health Convention, 1981 (No. 155), submitted under article 24 of the ILO Constitution by the Netherlands Trade Union Confederation (FNV), the National Federation of Christian Trade Unions (CNV) and the Trade Union Confederation of Middle and Higher Level Employees' Unions (MHP)
(GB.316/INS/15/6)

Decision

316. *The Governing Body decided that the representation was receivable.*

(GB.316/INS/15/6, paragraph 5.)

Seventh report: Status of developments in relation to the International Organization for Standardization (ISO)
(GB.316/INS/15/7(Rev.))

317. *The Worker Vice-Chairperson* stressed that the ILO was the international agency competent to deal with international labour standards, and that the ISO should not trespass in that area. As decided at the 310th Session of the Governing Body, the two organizations should establish a clear and concise understanding of their respective competencies. The

Office should set up a tripartite team to safeguard its interests: a small committee of selected Government representatives, along with Employer and Worker representatives, should consider options in that connection. ACT/EMP and ACTRAV should also be involved in that endeavour.

318. *The Employer Vice-Chairperson* said that the two organizations should collaborate, avoiding superposition and without ISO interference in ILO matters. The Workers' proposal should be considered and analysed, and the Office should put forward other ideas for consideration at the 317th Session (March 2013) of the Governing Body. An agreement that would protect the ILO's interests was needed.

319. *A Government representative of India* pointed out that the issue at hand could have implications at the national level in India and certainly in other countries where national standard bodies administered standards under different ministries. All aspects of the issue required debate.

Outcome

320. *The Governing Body provided guidance on elements necessary for pursuing a general cooperation agreement with the International Organization of Standardization.*

(GB.316/INS/15/7(Rev.), paragraph 3.)

Sixteenth item on the agenda

Composition and agenda of standing bodies and meetings

(GB.316/INS/16)

Tripartite Meeting of Experts on Labour Statistics on the Advancement of Employment and Unemployment Statistics

(Geneva, 28 January–1 February 2013)

Decisions

Composition

321. *On the recommendation of its Officers, the Governing Body approved that Australia be added to the reserve list for Government nominations for that Meeting, in order to reflect a greater regional balance.*

(GB.316/INS/16, paragraph 2.)

Invitation of international non-governmental organizations

322. *On the recommendation of its Officers, the Governing Body authorized the Director-General to invite Women in Informal Employment Globalizing and Organizing (WIEGO) to be represented at the Meeting as an observer.*

(GB.316/INS/16, paragraph 4.)

Global Dialogue Forum for the Promotion of the Work in Fishing Convention, 2007 (No. 188) (Geneva, 15–17 May 2013)

Decision

Invitation of international non-governmental organizations

323. *On the recommendation of its Officers, the Governing Body authorized the Director-General to invite the following international non-governmental organizations to be represented at the Global Dialogue Forum as observers:*

- *International Association of Classification Societies (IACS);*
- *International Christian Maritime Association (ICMA);*
- *International Collective in Support of Fishworkers (ICSF);*
- *International Committee on Seafarers' Welfare (ICSW);*
- *International Confederation of Water Transport Workers' Union (ICWTWU);*
- *International Co-operative Alliance (ICA);*
- *International Federation of Agricultural Producers (IFAP);*
- *International Maritime Health Association (IMHA);*
- *International Organisation of Employers (IOE);*
- *International Transport Workers' Federation (ITF);*
- *International Trade Union Confederation (ITUC);*
- *Organization of African Trade Union Unity (OATUU);*
- *Pan-African Employers Confederation (PEC); and*
- *World Federation of Trade Unions (WFTU).*

(GB.316/INS/16, paragraph 7.)

Meeting of Experts to Adopt Guidelines on the Training of Ships' Cooks (Geneva, 23–27 September 2013)

Decision

Invitation of international non-governmental organizations

324. *On the recommendation of its Officers, the Governing Body authorized the Director-General to invite the following international non-governmental organizations to be represented at the Meeting as observers:*

- *International Association of Classification Societies (IACS);*
- *International Christian Maritime Association (ICMA);*
- *International Co-operative Alliance (ICA);*
- *International Confederation of Water Transport Workers' Unions (ICWTWU);*
- *International Committee on Seafarers' Welfare (ICSW);*
- *International Federation of Agricultural Producers (IFAP);*
- *International Federation of Shipmasters' Associations (IFMSA);*
- *International Maritime Health Association (IMHA);*
- *International Organisation of Employers (IOE);*
- *International Shipping Federation (ISF);*
- *International Trade Union Confederation (ITUC);*
- *International Transport Workers' Federation (ITF);*
- *Organization of African Trade Union Unity (OATUU);*
- *Pan-African Employers Confederation (PEC); and*
- *World Federation of Trade Unions (WFTU).*

(GB.316/INS/16, paragraph 9.)

Nineteenth International Conference of Labour Statisticians (Geneva, 2–11 October 2013)

Decision

Invitation of international non-governmental organizations

325. *On the recommendation of its Officers, the Governing Body authorized the Director-General to invite the following international non-governmental organizations to be represented at the Meeting as observers:*

- *General Confederation of Trade Unions (GCTU);*
- *Women in Informal Employment Globalizing and Organizing (WIEGO).*

(GB.316/INS/16, paragraph 11.)

326. *The Worker Vice-Chairperson* wished to draw the Governing Body's attention to the Officers' statement on the crisis. He then highlighted the plight of Mr Basile Mahan Gahé, Secretary-General of the "Dignité de Côte d'Ivoire" national trade union and former Governing Body member. Mr Gahé had been incarcerated in Bundiali prison, 800 km from Abidjan, for over 18 months. Despite efforts by international institutions, including the ILO, the Government refused to free him. Conditions in the prison were poor, and his health was suffering. The legal authorities remained vague as to the reasons for his detention and no date had been fixed for his trial. In its 2012 report, the Committee of Experts had requested his release, labelling his arrest as a serious violation of freedom of association. In view of that situation, and the aggression suffered by Mr Gahé and his family, the Workers called on the Director-General to intervene to secure his immediate release.

Appendix

Statement of the Officers of the ILO Governing Body

The latest forecasts predict further challenges to economic growth over 2012 and in 2013 which will deepen the global jobs gap that worsened with the 2008 crisis. There is a high risk of the world economy sliding into a period of prolonged low or negative growth that will exacerbate the already bleak outlook for poverty alleviation, social cohesion, sustainable enterprises and employment, particularly of young people.

The victims will be millions of working women and men and the communities and nations in which they live. Global unemployment is expected to reach at least 203 million in 2013 and nearly 40 million more people have dropped out of the labour force since before the crisis. The growth slowdown around the world stands to result in appalling social consequences for workers and in crisis for many employers.

There are no quick fixes. However, through its coordinated actions at the international, the regional and the national level, the tripartite International Labour Organization has the capacity to play a positive role in proposing measures to achieve recovery from the crisis and mitigate its worst impact.

Accordingly, building upon the discussion of the global economic crisis by the Governing Body's high-level Working Party on the Social Dimension of Globalization, we the Officers of the Governing Body agreed on the following principles and initiatives:

1. We stress that social dialogue is a crucial tool in the search for consensus on a wide range of policy solutions. The ILO needs to prioritize social dialogue at all levels as part of its crisis response.
2. We assert that respect for fundamental principles and rights at work is central to human dignity. It is also an important input for recovery and development.
3. We reaffirm the importance of the ILO Declaration on Social Justice for a Fair Globalization (2008) and the ILO Global Jobs Pact (2009) in achieving sustainable recovery and growth.
4. We emphasize the key nature of the mandate and the participation of the ILO in the G20 Summit and of Labour Ministers in the G20 and other relevant international processes.
5. We therefore request the Director-General to take the following actions:
 - making maximum use of forthcoming official ILO meetings including the Ninth European Regional Meeting, 317th Session of the Governing Body and 102nd Session of the International Labour Conference in order for ILO constituents to debate the crisis, promote coordinated action and advance solutions;
 - seeking all possible means to put employment and fundamental principles and rights at work at the centre of the development agenda in the context of the decisions to be taken at relevant forums, leading to the adoption of a goal and target on full and productive employment and decent work as part of the post-2015 sustainable development agenda;
 - intensifying common efforts of the Governing Body and the Office to promote policy coherence between all relevant international and regional organizations in order to promote growth, decent and productive employment and social inclusion.