



Governing Body

340th Session, Geneva, October–November 2020

Institutional Section

INS

Minutes of the Institutional Section

Contents

	Page
Opening of the session	7
Opening statement by the Director-General of the International Labour Office	7
1. Special arrangements for the 340th Session of the Governing Body of the ILO (October–November 2020) (GB.340/INS/1)	8
Decision	8
2. Approval of the minutes of the 337th Session of the Governing Body and of the proceedings related to the decisions made by correspondence by the Governing Body between March and September 2020 in relation to the items on the agenda of the 338th Session of the Governing Body (GB.340/INS/2)	9
Decision	9
3. Agenda of future sessions of the international Labour Conference	9
4. Follow-up to the resolution on the ILO Centenary Declaration for the Future of Work: Proposals for including safe and healthy working conditions in the ILO's framework of fundamental principles and rights at work (GB.340/INS/4)	9
5. The Standards Initiative: Proposals on further steps to ensure legal certainty and information on other action points in the work plan on the strengthening of the supervisory system	9
6. Update on the United Nations reform (GB.340/INS/6)	9
7. Mid-term report on the implementation of the ILO Action Plan for Gender Equality 2018–21 (GB.340/INS/7(Rev.1))	10
Decision	10

	Summary of written comments received during the consideration of the item by correspondence	10
8.	Report of the 14th African Regional Meeting (Abidjan, 3–6 December 2019) (GB.340/INS/8(Rev.1))	14
	Decision	14
	Summary of the written comment received during the consideration of the item by correspondence	15
9.	ILO disability inclusion policy and strategy (GB.340/INS/9)	15
	Decision	22
10.	Guatemala: Progress report on action taken on the follow-up to the decision adopted by the Governing Body at its 334th Session to support the National Tripartite Agreement of November 2017 aimed at implementing the road map (GB.340/INS/10)	22
	Decision	30
11.	Progress report on the technical cooperation programme agreed between the Government of Qatar and the ILO (GB.340/INS/11).....	30
	Decision	34
12.	Progress report on the follow-up to the resolution concerning remaining measures on the subject of Myanmar adopted by the Conference at its 102nd Session (2013) (GB.340/INS/12).....	34
	Decision	43
13.	Reply of the Government of the Bolivarian Republic of Venezuela to the report of the Commission of Inquiry appointed to consider the complaint alleging the non-observance of the Minimum Wage-Fixing Machinery Convention, 1928 (No. 26), the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (GB.340/INS/13).....	44
14.	Complaint concerning non-observance by Bangladesh of the Labour Inspection Convention, 1947 (No. 81), the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (GB.340/INS/14(Rev.1))	60
	Decision	67
15.	Complaint concerning non-observance by Chile of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), the Maternity Protection Convention (Revised), 1952 (No. 103), the Workers' Representatives Convention, 1971 (No. 135), and the Labour Relations (Public Service) Convention, 1978(No. 151) (GB.340/INS/15(Rev.1)).....	67
	Decision	69
16.	Reports of the Committee on Freedom of Association	
	392nd Report of the Committee on Freedom of Association (GB.340/INS/16)	69

	Addendum: Presentation of the Committee on Freedom of Association annual report for the year 2019 (GB.340/INS/16(Add.1)).....	69
	Decisions.....	72
17.	Report of the 83rd Session of the Board of the International Training Centre of the ILO (Turin Centre) (GB.340/INS/17).....	72
	Decision	74
18.	Report of the Director-General (GB.340/INS/18(Rev.1)).....	75
	Decision	75
	Summary of written statements concerning obituaries	75
18.1.	First supplementary report: Update on the status of ratification of the 1986 Instrument for the Amendment of the Constitution of the ILO and follow-up to paragraph 3 of the resolution on the ILO Centenary Declaration for the Future of Work (GB.340/INS/18/1).....	77
	Decision	78
	Summary of written comments received during the consideration of the item by correspondence	78
18.2.	Second supplementary report: Report of the Technical Meeting on Achieving Decent Work in Global Supply Chains (Geneva, 25–28 February 2020) (GB.340/INS/18/2).....	79
18.3.	Third Supplementary Report: Follow-up to Governing Body decisions (GB.340/INS/18/3).....	79
	Decision	79
18.4.	Fourth Supplementary Report: Documents submitted for information only (GB.340/INS/18/4).....	79
	Decision	79
18.5.	Fifth Supplementary Report: Inclusion of the Philippines in the list to be established under Article 5, paragraph 6 of the Seafarers' Identity Documents Convention (Revised), 2003, as amended (No. 185) (GB.340/INS/18/5)	81
	Decision	81
	Summary of the statement received during the consideration of the item by correspondence	81
18.6.	Sixth Supplementary Report: The response of the International Labour Office to the COVID-19 pandemic (GB.340/INS/18/6)	81
	Decision	88
18.7.	Seventh supplementary report: Appointment of a Deputy Director-General and an Assistant Director-General (GB.340/INS/18/7)	89
	Decision	89

18.8.	Eighth supplementary report: Report of the Committee set up to examine the representation alleging non-observance by Lesotho of the Minimum Wage-Fixing Machinery Convention, 1928 (No. 26) (GB.340/INS/18/8).....	90
	Decision	90
19.	Reports of the Officers of the Governing Body	
19.1.	First report: Representation alleging non-observance by Chile of the Old-Age Insurance (Industry, etc.) Convention, 1933 (No. 35), and the Invalidity Insurance (Industry, etc.) Convention, 1933 (No. 37) (GB.340/INS/19/1).....	90
	Decision	90
19.2.	Second report: Representation alleging non-observance by Cameroon of the Right of Association (Agriculture) Convention, 1921 (No. 11), the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), the Discrimination (Employment and Occupation) Convention, 1958 (No. 111) and the Termination of Employment Convention, 1982 (No. 158) (GB.340/INS/19/2).....	91
	Decision	91
19.3.	Third report: Representation alleging non-observance by Tunisia of the Labour Inspection Convention, 1947 (No. 81) (GB.340/INS/19/3)	91
	Decision	91
19.4.	Fourth report: Representation alleging non-observance by Argentina of the Occupational Safety and Health Convention, 1981 (No. 155) and the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187) (GB.340/INS/19/4).....	91
	Decision	91
19.5.	Fifth report: Representation alleging non-observance by Peru of the Hours of Work (Industry) Convention, 1919 (No. 1) (GB.340/INS/19/5).....	92
	Decision	92
19.6.	Sixth report: Representation alleging non-observance by Mexico of the Social Security (Minimum Standards) Convention, 1952 (No. 102) (GB.340/INS/19/6)	92
	Decision	92
19.7.	Seventh report: Representation alleging non-observance by Peru of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), the Workers with Family Responsibilities Convention, 1981 (No. 156) and the Safety and Health in Mines Convention, 1995 (No. 176) (GB.340/INS/19/7)	92
	Decision	92

19.8.	Eighth report: Representation alleging non-observance by Portugal 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) (GB.340/INS/19/8).....	93
	Decision	93
19.9.	Ninth report: Follow-up to the representation alleging non-observance by Chile of the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187) (GB.340/INS/19/9)	93
	Decision	93
19.10.	Tenth report: Representation alleging non-observance by Portugal of the Nursing Personnel Convention, 1977 (No. 149) (GB.340/INS/19/10).....	93
	Decision	93
20.	Procedure for the appointment of members of the Committee of Experts on the Application of Conventions and Recommendations	94
21.	Composition, agenda and programme of standing bodies and meetings (GB.340/INS/21)	94
	Decision	94
	Summary of written comments received during the consideration of the item by correspondence	94
	Other business	95
	Resolution concerning maritime labour issues and the COVID-19 pandemic.....	95
	Decisions.....	98
	Summary of statements received during the consideration of the item by correspondence	98
	Trade union rights in the Sudan	99
	Closure of the session	100

Opening of the session

- 1. The Chairperson** welcomed participants to the 340th Session of the Governing Body, which was being held virtually due to the COVID-19 pandemic. He thanked the Government group, and in particular the Asia and the Pacific region, for his nomination. He extended his gratitude to the social partners as well, for their endorsement of his nomination and reiterated his commitment to the Governing Body and to the Organization's mandate.
- 2.** The Chairperson then reminded participants that due to the deferral of the June 2020 session of the Governing Body, the Governing Body had elected him Chairperson by correspondence. In light of that, the Governing Body had not had the opportunity to recognize the work of and thank its outgoing Chairperson, Ambassador Refiloe Litjubo from the Kingdom of Lesotho. He therefore suggested the Governing Body take a moment to thank Ambassador Litjubo.
- 3. The outgoing Chairperson** said it had been an honour and a privilege to perform his duties. He thanked Screening Group members for their work in the context of the pandemic, in particular the Regional Coordinators. He likewise extended his gratitude to Mr Mdwaba and Ms Passchier and recognized their expertise. The Screening Group had held 17 virtual sessions since 13 March 2020. He thanked the Director-General for his availability and support. Lastly, he referred to a few momentous discussions which he had been pleased to superintend: the Update on the status of ratification of the 1986 Instrument for the Amendment of the Constitution of the ILO ([GB.337/INS/12/1\(Rev.1\)](#)); the proposals for including safe and healthy working conditions in the ILO's framework of fundamental principles and rights at work ([GB.337/INS/3/2](#)); the programme of work and results framework for 2020–21 ([GB.337/PFA/1/1](#)); and the update on the costed and time-bound integrated strategy to address decent work deficits in the tobacco sector ([GB.337/POL/5](#)). He likewise referred to the adoption, by the International Labour Conference, of the ILO Centenary Declaration for the Future of Work in June 2019; and to his participation in the 14th African Regional Meeting, where the Abidjan Declaration had been adopted.
- 4. The Employer Vice-Chairperson** thanked the outgoing Chairperson for his time, energy and understanding disposition towards the social partners, which he was able to bring together through the compromises and consensus he had helped create.
- 5. The Worker Vice-Chairperson** thanked the outgoing Chairperson for his dedication, polite and friendly attitude when attempting to bridge gaps. She was grateful for the good cooperation between them. Furthermore, she welcomed the new Chairperson, who would be taking over the post under such unusual and difficult circumstances and chairing remotely. She recalled, on behalf of her group, that they hoped for the virtual format to be a unique, one-off exercise.

Opening statement by the Director-General of the International Labour Office

- 6. The Director-General** opened the 340th Session of the Governing Body by referring to the very particular circumstances under which it was taking place. The COVID-19 pandemic struck shortly after the 337th Session in 2019, year of the Centenary, and the Governing Body had not been able to hold its sessions since. The Director-General pointed out the dramatic impact the pandemic had had on the ILO and the world of work at large. While the ILO had continued working under exceptional arrangements, COVID-19 and its consequences had been devastating for the world of work – from job destruction to labour income reduction, to enterprise closures and resurging poverty. In

this context, this session of the Governing Body was crucial in promoting a human-centred recovery from the crisis. The Director-General paid tribute to all those who agreed to hold this session in a fully virtual format, under special arrangements. He congratulated Mr Apurva Chandra on his election as Chairperson of the Governing Body and assured him of the Office's full confidence. While recognizing the dramatic context in which the Governing Body met, the Director-General focused on the relevance of that session's agenda items in setting the future direction of the Organization. In doing so, he reaffirmed the importance of the Centenary Declaration and of the United Nations 2030 Agenda for Sustainable Development (2030 Agenda). He reiterated that the Organization could rely on two unique assets to overcome the crisis: tripartite cooperation and social dialogue, along with international labour standards. A few of the agenda items which would have far-reaching implications included the Preview of the Programme and Budget proposals for 2022–23, and the draft Strategic Plan for 2022–25. Both of these prioritized continuity in the operationalization of the Centenary Declaration for the Future of Work, while taking into account the response to COVID-19.

7. He introduced two documents specifically addressing ILO action in respect of COVID-19. The first one (GB.340/INS/18/6) presented measures taken by the Office to ensure business continuity following the onset of the pandemic. The second one (GB.340/HL/2) contained a proposal for ILO action and leadership in a human-centered recovery from the COVID-19 crisis, in order to maximize the impact of the Centenary Declaration in the recovery efforts. He also referred to document (GB.340/POL/6) which contained a draft Development Cooperation Strategy for 2020–25. Some of the standards system's mechanisms had been interrupted in 2020. The Director-General was nevertheless satisfied that the Committee on Freedom of Association had been able to meet and was looking forward to reviewing its report. Moreover, no less than six specific country cases would be reviewed during the session, all of which related to complaints under article 26 of the ILO Constitution. The Director-General reiterated that they should be addressed by the Governing Body on the basis process, principle and perseverance. He concluded by acknowledging the considerable political effort on the part of members to agree to the deferment of a significant number of agenda items until the next session of the Governing Body, and thanked all members for that effort. He wished to underline that the decision for deferral in no way diminished the importance of the issues concerned. He congratulated the Governing Body on the efficiency with which decisions had been taken by correspondence, and trusted members would take example and encouragement from it so that the remaining business of this first-ever virtual session of the Governing Body could be concluded successfully.

1. Special arrangements for the 340th Session of the Governing Body of the ILO (October–November 2020) (GB.340/INS/1)

Decision

8. **The Governing Body decided by correspondence to hold its 340th Session from 2 to 14 November 2020 under the special arrangements and rules of procedure set out in the appendix to document GB.340/INS/1 in order to facilitate the conduct of the session.**

(GB.340/INS/1, paragraph 14)

9. **The Chairperson** explained that the situation around the pandemic had evolved since the publication of the document and adoption of the decision by correspondence. That meant that the session would be entirely virtual and delegates would no longer be allowed in the ILO meeting rooms. He therefore sought the Governing Body's approval to request the Office to revise said document to reflect the new reality. His suggestion met with the support of the Governing Body.

(A revised version of the document (GB.340/INS/1(Rev.1)) was published on 4 November.)

2. **Approval of the minutes of the 337th Session of the Governing Body and of the proceedings related to the decisions made by correspondence by the Governing Body between March and September 2020 in relation to the items on the agenda of the 338th Session of the Governing Body (GB.340/INS/2)**

Decision

10. **The Governing Body approved by correspondence the minutes of its 337th Session (October–November 2019), as amended, and took note of the minutes of the meetings of the Screening Group held in preparation of decisions made by correspondence by the Governing Body between March and October 2020.**

(GB.340/INS/2, paragraph 4)

3. **Agenda of future sessions of the international Labour Conference**

(The consideration of this item is deferred to the 341st Session (March 2021).)

4. **Follow-up to the resolution on the ILO Centenary Declaration for the Future of Work: Proposals for including safe and healthy working conditions in the ILO's framework of fundamental principles and rights at work (GB.340/INS/4)**

(The document under this item was submitted for information only.)

5. **The Standards Initiative: Proposals on further steps to ensure legal certainty and information on other action points in the work plan on the strengthening of the supervisory system**

(The consideration of this item is deferred to the 341st Session (March 2021).)

6. **Update on the United Nations reform (GB.340/INS/6)**

(The document under this item was submitted for information only.)

7. Mid-term report on the implementation of the ILO Action Plan for Gender Equality 2018–21 (GB.340/INS/7(Rev.1))

11. In preparation for the adoption of a decision by correspondence, the Office held a briefing session for Governing Body members on this item on 9 October 2020. In the light of the discussions at that session, the draft decision contained in document GB.340/INS/7 was amended as follows:

The Governing Body, by correspondence, requested the ~~Office~~ Director-General to:

- (a) redouble efforts to implement the 2020–21 phase of the ILO Action Plan for Gender Equality 2018–21 and improve results, taking into account the Governing Body's guidance and lessons learned; and
 - (b) identify concrete measures and steps to accelerate action in specific indicators, including on leadership and staffing, to improve results with a view to achieving gender equality at the ILO, and provide these for information to the Governing Body as soon as possible; and
 - (c) report to the Governing Body on the results of an evaluation of the Action Plan 2018–21, along with the proposed approach of the subsequent Action Plan, in early 2022, with a view to a heightened strategic positioning of the ILO in the United Nations reform.
12. The Screening Group agreed to put the item forward for a decision by correspondence. The decision contained in document GB.340/INS/7(Rev.1) was adopted by consensus and announced to all Governing Body members by a communication of 22 October 2020.

Decision

13. **The Governing Body, by correspondence, requested the Director-General to:**
- (a) redouble efforts to implement the 2020–21 phase of the ILO Action Plan for Gender Equality 2018–21 and improve results, taking into account the Governing Body's guidance and lessons learned;
 - (b) identify concrete measures and steps to accelerate action in specific indicators, including on leadership and staffing, to improve results with a view to achieving gender equality at the ILO, and provide these for information to the Governing Body as soon as possible; and
 - (c) report to the Governing Body on the results of an evaluation of the Action Plan 2018–21, along with the proposed approach of the subsequent Action Plan, in early 2022, with a view to a heightened strategic positioning of the ILO in the United Nations reform.

(GB.340/INS/7(Rev.1), paragraph 27)

Summary of written comments received during the consideration of the item by correspondence ¹

14. **The Employers' group**, noting with satisfaction that most of its contributions had been taken into account, welcomed the closer alignment between the ILO Action Plan and the United Nations (UN) gender strategies and plans. The group also welcomed the inclusion of gender-responsive indicators for the Turin Centre and the recent interviews with

¹ The complete text of each comment in the original language is available on the [Governing Body's web page](#), together with the decision.

constituents to evaluate and improve the Action Plan, and observed that changing attitudes, building capacity and ensuring adequate human and financial resources were critical components of the Action Plan.

15. The increase in the number of unmet targets since 2016–17 suggested that the Office was not prioritizing the required changes, especially in the areas of accountability and capacity. With regard to disincentives, the group was not in favour of withholding the approval of an appraisal for projects and programmes that did not integrate gender, unless necessary, as not all capacity development efforts could be gender-responsive. The topic should be examined holistically under the ILO Development Cooperation Strategy 2020–25.
16. In order to increase the representation of female delegates at sessions of the International Labour Conference and at other meetings, the Office should work with employers' and workers' organizations on gender diversity as a policy issue, with a focus on capacity-building, and hold targeted discussions to improve the gender representation.
17. At the policy level, the Bureau for Employers' Activities (ACT/EMP) had been working closely with employer and business membership organizations through its work on women in business and management, leading to concrete organizational changes in Latin America and the Caribbean. Progress had also been made in the Philippines.
18. To enhance accountability, all senior managers should receive training on unconscious bias and the Office should monitor the situation at the individual unit or office level.
19. The figures showed how difficult it was to achieve equality between men and women, despite all the expertise and efforts made by the ILO. A strong commitment from leaders was required, and a change of culture at all levels of the organization.
20. **The Workers' group** acknowledged the efforts made by the Office to implement the Action Plan and noted with satisfaction that the ILO Policy on Gender Equality and Mainstreaming identified gender parity as a priority area. Nevertheless, work remained to be done. The group had made a commitment to improve the proportion of women in its delegations at the International Labour Conference and at other meetings and welcomed the support of the Office in that regard. The efforts and engagement of the labour movement for the ratification of the Violence and Harassment Convention, 2019 (No. 190), would provide an opportunity to discuss gender gaps and practices that hindered women's participation in decision-making processes.
21. Progress at the P5 level had stalled and the gender gap for directors had increased, which was a trend that had to be reversed as soon as possible. While the Office should conduct monitoring that coincided with the reporting period of the United Nations System-wide Action Plan on Gender Equality and the Empowerment of Women (UN-SWAP), timely and separate reporting to the Governing Body was crucial in order for the Governing Body to provide guidance to the Office on the next steps. Interaction with other UN agencies would allow the ILO to mainstream the relevant international labour standards in order to improve gender equality. Clarity was needed on which measures would be adopted to achieve the unmet targets, an endeavour that required management support and engagement. Efforts to include gender equality and non-discrimination as a cross-cutting policy driver and policy outcome at a programmatic level should be maintained and reinforced. With increased efforts, it should be possible to meet or exceed the unmet targets. The group supported the draft decision.

- 22. The Asia and Pacific group (ASPAG)** noted that achieving gender parity at the P5 level and above had to be a key focus for the ILO in 2021 so that further progress could be made towards achieving the UN goal of 47–53 per cent representation of women or men. A renewed commitment was needed from the Office towards meeting some of the unmet targets, including those relating to accountability and capacity. It was disappointing that some of relatively easy targets had not been achieved or statistics had not been made available; achieving those should be a priority. The COVID-19 pandemic underscored the need for renewed emphasis on achieving gender equality. It was regrettable that the two capacity-building events for the social partners to improve gender parity in delegations to the Conference had not been held. They could be delivered virtually, reaching more people than might have been reached prior to the pandemic, to ensure a gender balance at the 109th Session (2021). ILO leaders at all levels needed to drive the reforms. The Director-General should reinforce the need to deliver on the outcomes of the Action Plan sooner rather than later and the ILO should lead the way in demonstrating its commitment to gender equality and promoting best practice. ASPAG supported the draft decision as amended to reflect the real purpose of the Action Plan, which should be to ensure real and sustained improvements within the ILO.
- 23. The group of industrialized market economy countries (IMEC)**, noting that the mid-term report and the Action Plan itself enhanced institutional transparency, stressed the importance of an ambitious implementation with a view to achieving concrete results. Given its important mandate, the ILO should be a trendsetter on gender equality and the Action Plan should be promoted as a priority, taking into account the disproportionately negative impact of the COVID-19 crisis on women. IMEC welcomed the alignment of the Action Plan with the UN-SWAP and noted the positive comments from UN Women on the progress made in advancing the Action Plan.
- 24.** IMEC noted with concern that 24 of the 57 targets had not been met, including in key areas such as oversight, accountability and capacity, which was a setback compared to 2016–17. The Office should provide further information to explain why there was progress in some areas and not in others and make the necessary adjustments in the implementation of the plan. Some of the information in the report could have been presented more clearly; for example, the information on the targets met, exceeded and not met could have been presented in a table and there could have been a clearer articulation between the statistics and the narrative.
- 25.** IMEC welcomed the progress made in respect of Decent Work Country Programmes (DWCPs), gender parity at the P1–P4 levels and job vacancy descriptions. There was little in the report, however, to address how gaps or challenges – such as the persistent stagnation of staffing at the P5 level and above – would be addressed in 2021. The ILO should be a leader on staffing and gender equity. IMEC would also like to know what the plans were for regions without dedicated gender specialists and what measures would be taken to encourage all constituents to achieve gender parity in their delegations to the Conference. Information should be provided to explain, in relation to results-based management, why the target related to project and programme proposals was expected to drop. Only 14 per cent of global project and programme proposals met the cross-cutting policy driver, which seemed quite low given that the target was 35 per cent. The Office should move to the UN standard for measuring parity, rather than using its own older measure.
- 26.** With regard to oversight, the fact that only 25 per cent of audited field office reports identified gender-related risks and mitigation action taken when the target was 70 per

cent seemed like a poor result. The Office should explain why there was no information available on several targets. The ILO had, within the multilateral system, the mandate to promote decent work for all without any discrimination. It also had the best expertise in work-related issues and IMEC expected more concrete and ambitious results and commitment from the Office. IMEC supported the draft decision in document GB.340/INS/7(Rev.1).

27. In the statement on behalf of **the European Union (EU) and its Member States**, it was noted that the EU supported the ILO's focus on gender equality and pursued gender equality in its policies. The EU also supported a number of ILO projects that promoted gender equality. The progress identified in the mid-term report was welcome, and it was commendable that the ILO was reinforcing its internal accountability through the independent evaluations of the Action Plan. Nevertheless, the mid-term report revealed a rather sobering picture and presented a number of challenges, especially when considered in the context of COVID-19. The ILO was strongly encouraged to increase its efforts to address the fact that most of the targets relating to oversight and accountability had not been met. It was regrettable that no audit had yet been designed on internal sexual harassment control and response procedures. Up-to-date sex-segregated statistics in accordance with the targets should be provided in a timely manner. Gender equality and non-discrimination in country programmes should be enhanced in terms of both human and financial resources.
28. Although it was positive that there had been an increase in the overall share of regular budget professional positions held by women, the fact that the situation for higher grades had deteriorated since 2010 was a matter of concern. It was apparent that further work was needed to increase the number of women in delegations to the Conference and regional meetings.
29. Decent work for all remained a strong priority and the EU and its Member States looked forward to the ILO report to the 109th Session of the Conference on inequalities and the world of work, which should include analyses on the impact of the COVID-19 pandemic on equality and non-discrimination at work.
30. **The Russian Federation** supported the draft decision as originally proposed by the Office in document GB.340/INS/7, and recalled that, since March 2020 and in accordance with the special arrangements for the 340th Session of the Governing Body as set out in document GB.340/INS/1, in the context of the COVID-19 response, the Governing Body had been taking a series of decisions by correspondence on urgent, non-controversial or routine matters. However, the amendments introduced to the draft decision in document GB.340/INS/7(Rev.1) went beyond technical or editorial changes and significantly affected the meaning and the scope of the decision. Amendments of such nature called for substantive consultations among the tripartite constituents. The Russian Federation would, therefore, prefer the item to be deferred until the 341st Session of the Governing Body when, it was hoped, thorough and inclusive discussions could be held.
31. **The United Kingdom of Great Britain and Northern Ireland** supported the statement by IMEC. It welcomed the mid-term review of the Action Plan and shared the Office's concern about the slow – and, in some cases, reversal of – progress. As part of its commitment to increase gender equality in the labour market, the United Kingdom had introduced gender pay gap reporting and improved its policies on childcare, flexible working arrangements, parental leave and support to those returning to the workforce.

32. With women set to be hard hit by the economic fallout of the COVID-19 pandemic, it was clear that the pandemic would exacerbate gender inequality and there was a risk that there would be a significant reversal in gender equality gains. Women and girls must therefore be at the heart of efforts to build back better.
33. The ILO must continue to promote gender equality through the implementation of its Strategic Plan for 2018–21 and also through efforts within the Office to meet the UN-SWAP targets. Further information should be provided on the concrete ways in which the Action Plan would strategically position the ILO in the UN reform, as proposed in the original decision.
34. At the mid-point of the Action Plan, it was essential to focus on the delivery of the unmet targets. The United Kingdom was keen to identify ways of sharing lessons learned from its policies. It welcomed the adoption of Convention No. 190, and would like to know whether the Office planned to build the monitoring of violence and harassment into the final stage of the Action Plan.

8. Report of the 14th African Regional Meeting (Abidjan, 3–6 December 2019) (GB.340/INS/8(Rev.1))

35. In preparation for the adoption of a decision by correspondence, the Office held a briefing session for Governing Body members on this item on 7 October 2020.
36. The Screening Group agreed to put the item forward for a decision by correspondence on the understanding that the Office would publish a revised version of the document, in which the draft decision would make reference to the Implementation Plan supplementing the Abidjan Declaration and in which the Implementation Plan would be incorporated as an appendix.
37. The decision contained in document GB.340/INS/8(Rev.1) was adopted by consensus and announced to all Governing Body members by a communication of 22 October 2020.

Decision

38. **The Governing Body decided by correspondence to:**
 - (a) **draw the attention of ILO constituents, in particular those of the Africa region, to the Abidjan Declaration and its Implementation Plan by making the text available to:**
 - (i) **the governments of all Member States, requesting them to communicate the text to national employers' and workers' organizations;**
 - (ii) **the official international organizations and non-governmental international organizations concerned;**
 - (b) **take the Abidjan Declaration and its Implementation Plan into consideration when implementing current programmes and in developing future programme and budget proposals.**

(GB.340/INS/8(Rev.1), paragraph 232)

Summary of the written comment received during the consideration of the item by correspondence ²

39. **The Workers' group** considered that, while there should be collaboration between the ILO and the African Union, the agendas of the two bodies should not be fused. Although many of the group's comments had been taken into consideration in the document, some had not; the group therefore wished to reiterate its priorities to ensure sufficient funding for actions in those areas. Regarding structural transformation, in the current crisis situation and in line with the Centenary Declaration's call for policy coherence, the ILO had a key role to play in the multilateral system by working with international financial institutions to facilitate the economic recovery of the African continent. The ILO should provide its expertise and facilitate dialogue on social protection to find emergency and sustainable solutions. The Decent Work Agenda should guide the employment creation strategy, and consideration should be given to the quality dimension of employment. Cooperatives and the social and solidarity economy were a main source of income and warranted further attention. The adequate funding, staffing and improvement of public services was another key priority, and the Implementation Plan should be guided by a rights-based approach to such services. Priority should also be given to the ratification of and technical support for the implementation of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98). Lastly, holding multinational enterprises accountable was part of the much-needed African structural transformation and the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy (multinational enterprise (MNE) Declaration) was a useful tool in that respect. The Workers' group supported the draft decision.

9. ILO disability inclusion policy and strategy (GB.340/INS/9)

40. **The Worker spokesperson** agreed that the ILO should take the opportunity provided by the development of the United Nations Disability Inclusion Strategy (UNDIS) to develop its own policy on disability inclusion, which was long overdue. The alignment of the ILO's policy with the UNDIS would allow the ILO to incorporate the Decent Work Agenda into the accountability framework across the United Nations (UN) system. She welcomed the consultations that had been held with the ILO Staff Union, noting that trade unions possessed extensive experience in promoting inclusion. Social dialogue was required at all stages of the policy's development to ensure that its impact would be felt by the beneficiaries of ILO programmes, and workers more generally. The human-centred approach set out in the ILO Centenary Declaration for the Future of Work included ensuring equal opportunities and treatment in the world of work for persons with disabilities, but its demands for access to quality public services, universal social protection, fully productive and freely chosen employment and the recognition of occupational safety and health were equally important in the quest for disability inclusion. The policy should therefore reference all four pillars of the Decent Work Agenda, along with the fundamental Conventions and other relevant ILO instruments.
41. Turning to the proposed policy itself, she said that the second clause of the first sentence of paragraph 2 of the Preamble appeared to be unnecessary and stated in an unfortunate way. The proposed policy made reference to tripartite constituents with disabilities, and the Workers hoped that their needs would be considered in addition to

² The complete text of the comment in the original language is available on the [Governing Body's web page](#), together with the decision.

the needs of staff with disabilities, and that they would be able to contribute to the implementation of the policy in forums beyond the Governing Body. Referring to the guiding principles, she said that collective bargaining and freedom of association were necessary if the policy was to reach all areas of ILO operations and must be included under paragraph 7.

42. There was concern among the Workers with regard to how consultations and dialogue would be conducted; while matters pertaining to staff members required consideration by the ILO Staff Union, the proposed policy appeared to suggest separate consultations with staff members with disabilities or with those who had dependants with disabilities. She requested clarification on how the groups to be consulted would be identified. The section on employment and non-discrimination should state explicitly that discrimination would not be tolerated, and her group would welcome later discussion of possible recruitment targets. The Workers supported the draft decision, with the amendment proposed by IMEC and ASPAG to redraft the second part of subparagraph (c) to read "... and to provide to the Governing Body a report for information, on a biennial basis, starting in its 346th Session, on progress and areas for improvement, including a summary of the annual reporting to the UN on its implementation of the United Nations Disability Inclusion Strategy".
43. **The Employer spokesperson** commended the Policy Departments' work in the area of disability inclusion and the Office's leveraging of expertise in that area to lead in the development of the UNDIS. However, noting that the proposed policy stated that the ILO must "lead by example", he said that the ILO risked missing an opportunity given that, with regard to disability inclusion, it tended to rely on the strong work carried out within its Policy portfolio rather than developing expertise within its Human Resources Development Department, which had a different mandate and function. The Office must gather baseline data on the recruitment, promotion and retention of persons with disabilities so as to set targets against which progress could be measured. Confidential employee surveys should be conducted to that end, drawing on the expertise of the private sector, including companies participating in the ILO Global Business and Disability Network. Those data-gathering activities must also include ILO field staff. His group called on the Office to develop such targets promptly and to inform the Governing Body when they have been set.
44. The Office should establish a clear focal point for staff with disabilities within the Human Resources Development Department and in the field, to serve as a "one-stop shop" for accommodation requests, advice, support and grievances. It should use procurement and contracting functions to promote the meaningful employment of persons with disabilities, including by third-party contractors who work on ILO premises. It should also commission an independent evaluation to ensure inclusivity in its key processes, beginning with recruitment. The results of that evaluation should be presented to the Governing Body, and the Office should develop a proactive agenda for offering employment opportunities to persons with disabilities. Again, much could be learned from the private sector.
45. While the proposed policy was understandably general, it lacked key implementation strategies, including timelines and objectives. The Office should submit that information to the Governing Body as soon as possible. In conclusion, he urged the ILO to strengthen its internal human resources approach to disability inclusion without delay, setting ambitious goals and adopting consistent, innovative and quantifiable measures to meet them. The Employers supported the draft decision with the amendment proposed by IMEC and ASPAG.

- 46. Speaking on behalf of the Government group**, a Government representative of Panama commended the leading role taken by the ILO in developing the UNDIS and emphasized the need to build on the success of the ILO's previous work in the area of disability inclusion and reflect the values laid down in ILO instruments. Noting that accountability was a precondition for its success, he said that the implementation of the policy through integrated multiannual strategies should be carried out in an efficient and cost-effective manner. The adoption of the subsequent multiannual strategies by senior management was a good way to ensure that the ILO, at all levels, took ownership of the implementation of the policy. The multiannual strategies should set measurable goals to accurately track and assess progress. He wished to know the status of the development of the UN Country Team Accountability Scorecard on Disability Inclusion incorporated in the UNDIS accountability framework to track the implementation of the strategy, and whether it had any implications for the ILO's proposed policy.
- 47.** The fact that the proposed policy's guiding principles would build on key successes and challenges drawn from the ILO's Disability Inclusion Strategy and Action Plan 2014–17 was welcome. However, more could be done to ensure that the ILO responded to discrimination on the basis of disability. The guiding principles should take into account all relevant barriers, and not only physical barriers, with the aim of eliminating them. Effective cooperation with the UN system and beneficiaries should also be considered in the design and implementation of the policy. It would be instrumental to further enhance collaboration and consultation across all levels of the Organization, including country offices, on the policy and its subsequent strategies. Accordingly, his group recommended adding a guiding principle on collaboration within the UN system and the exchange of good practices. The ILO should continue to act as a leading and constructive partner within the UN family as part of its disability inclusion policy. The Government group joined IMEC and ASPAG in proposing the amendment to subparagraph (c) of the draft decision.
- 48. Speaking on behalf of the Africa group**, a Government representative of Lesotho said that her group welcomed the proposed policy, which would go a long way in further strengthening the ILO's ability to attract, recruit, retain and promote staff with disabilities and would be instrumental in guiding Member States in developing their own such policies. Referring to the guiding principles, in 7(vii), she noted the importance of disability inclusion as a cross-cutting issue. As such, the proposed disability-inclusive approach in all of the ILO's policies, projects, programmes and operations was commendable. Regarding 7(iii), she emphasized the importance of engaging persons with disabilities in disability inclusion issues. Her group wished to present a specific proposal relating to the access of persons with disabilities to healthcare, including occupational therapy and life-saving procedures, particularly during the COVID-19 crisis, to enable them to continue to work in places suited to their circumstances. With regard to employment and non-discrimination, the ILO should set an example by protecting its staff with disabilities. As for capacity development and communications, the ILO's staff training and development plan should specifically include persons with disabilities. Awareness-raising on disability inclusion should be considered at all levels. The ILO should implement training and life skills programmes that specifically targeted and empowered persons with disabilities, and provided them with appropriate tools. Her group encouraged the Office to develop the guiding principles into concrete actions and measures with specific timelines. The Office should assist Member States with the establishment of national policies on disability inclusion in the world of work. She supported the draft decision as amended.

- 49. Speaking on behalf of Group of Latin America and Caribbean Countries (GRULAC),** a Government representative of Barbados, noting that the inclusion of persons with disabilities constituted a challenge for countries in his region, especially in the light of the COVID-19 crisis, expressed his group's support for the UNDIS and its confidence that the priorities of the ILO policy, the structure proposed and the framework of multiannual strategies would contribute to the full implementation of the UNDIS. GRULAC recognized the work already done by the ILO on disability issues and agreed that the guiding principles would facilitate further progress. An adequate allocation of resources was needed for the implementation of the policy and the strategies proposed, as was a coherent institutional framework. Intersectionality should be a priority and particular attention should be given to persons with disabilities who also belonged to other groups in vulnerable situations. The ILO should maintain clear leadership on the issue. He supported the draft decision as amended.
- 50. Speaking on behalf of IMEC,** a Government representative of Canada said that, with a view to strengthening the applicability and impact of the proposed ILO policy on disability inclusion, as set out in the appendix to the document, references should be added in paragraph 3 to the Convention on the Rights of the Child and in paragraph 4 to persons with "other or multiple disabilities". Subparagraph 5(a) should reflect the importance of facilitating proper conditions so that persons with disabilities were able to benefit equally from all ILO projects, programmes and operations. The guiding principle on consultation and social dialogue could be strengthened by explicitly stating that the ILO would operationalize those principles in its field work. It was important that the indicators and targets referred to in paragraph 6 were measurable.
- 51.** She suggested that "working conditions, including those introduced as a result of the COVID-19 pandemic", should be added to the list of issues for consultation enumerated in paragraph 7(ii). Telework should be included at the end of paragraph 7(iii). The text of paragraph 7(iv) should be strengthened by adding "on the basis of gender, colour, sexual orientation, age, language, religion, political or other opinion, national or ethnic origin and discrimination by association". In relation to paragraph 7(v), she emphasized the importance of making all ILO documents accessible and extending the notion of the removal of barriers to accessibility to encompass the "proactive identification, removal and prevention of barriers to accessibility". Paragraph 7(vi) should include ILO meetings, conferences and events that were conducted virtually or by videoconference. In paragraph 7(vii), meaningful engagement with persons with disabilities and their organizations needed to be part of designing and implementing all ILO projects, programmes and operations, wherever they were implemented. She welcomed the collection of disability-disaggregated data referred to in paragraph 7(x) and encouraged the Office to collect, in conjunction, data on gender, age and other relevant factors, to gain insights on intersectionalities. She was of the view that senior management should play a pivotal role in the process of monitoring and evaluation, to ensure implementation of the policy and its subsequent strategies at all levels of the Organization, including country offices. In the context of review of policy (paragraph 7(xiii)), relevant stakeholders, including persons with disabilities and their organizations, should be consulted in order to identify gaps. She supported the amendment to the draft decision put forward by ASPAG and IMEC.
- 52. Speaking on behalf of the European Union (EU) and its Member States,** a Government representative of Germany said that North Macedonia, Albania, Norway and Georgia aligned themselves with the statement. Target 8.5 of the 2030 Agenda, to achieve full and productive employment and decent work for all women and men, including for young people and persons with disabilities, and equal pay for work of equal

value, had become even more relevant owing to the COVID-19 pandemic. Only 28 per cent of persons with disabilities globally had access to disability benefits, with only 1 per cent in low-income countries. That alarming disparity needed to be addressed in all future joint international actions aimed at COVID-19 response and recovery.

53. The EU and its Member States, as parties to the Convention on the Rights of Persons with Disabilities, were deeply committed to promoting, protecting and respecting all the human rights of persons with disabilities on an equal basis with others, across all policies. The European Disability Strategy 2010–2020 aimed to empower people with disabilities to enjoy their rights and participate fully in society and the economy. The results of evaluation of that strategy would inform the preparation of a new strategy for 2021–2030, which would contribute to building a union of equality.
54. The structure and content of the proposed ILO policy and strategy were in line with the UNDIS. The Office was strongly encouraged to proactively continue playing its key role in all inter-agency actions, in order to further promote the implementation of disability inclusion at the global level within international development programmes, multilateral cooperation and future COVID-19 recovery responses. She supported the draft decision as amended.
55. **A Government representative of Bangladesh** appreciated the development of the ILO disability inclusion policy and said it was encouraging that more attention had been paid to the mainstreaming of disability issues in the ILO Programme and Budget for 2020-21. In 2008, Bangladesh had been among the first countries to ratify the Convention on the Rights of Persons with Disabilities. Since then, the Government of Bangladesh, in cooperation with the ILO and other development and social partners, had made major strides towards achieving a shared vision of disability inclusion.
56. To promote a disability-inclusive approach across the world of work, the ILO should mainstream disability inclusion in its projects, programmes and operations, complemented by targeted interventions for persons with disabilities, and should assist Member States in developing skills among persons with disabilities. The ILO should also focus on disability inclusion, to create systematic change in the demand and supply of skilled persons with disabilities, through activities and reforms within industry and training institutions, while both governments and the private sector should focus on generating disability-inclusive employment opportunities. Lastly, the ILO should support countries in promoting microfinancing and microenterprises for persons with disabilities and enhance its partnerships with organizations working for persons with disabilities. He wished to know how the ILO would streamline its work with its country offices, as well as with the UN country teams, in ensuring meaningful implementation of the policy.
57. **A Government representative of Ecuador** said that two significant actions had been undertaken in his country. First, a network of inclusive companies had been formed to help persons with disabilities, and those companies shared their good practices. Secondly, companies that had implemented good practices, particularly during the pandemic, were recognized. The inclusion of persons with disabilities and adaptation to their specific needs, on the basis of social dialogue, needed to be an ongoing priority in ILO policy. He supported the document under consideration.
58. **A Government representative of the United Kingdom** said that her country supported full implementation of the UN Disability Inclusion Strategy, as well as finalization and implementation of the proposed ILO policy and strategy on disability inclusion. The ILO was commended for its policy brief on the key issues that a disability-inclusive COVID-19 response should address and its recommendation that persons with disabilities should

be included in all COVID-19 response-related initiatives. The ILO's disability inclusion strategy should reflect issues arising from the evidence that the COVID-19 pandemic was disproportionately affecting persons with disabilities. The United Kingdom encouraged the Office to strengthen its approach on capacity development and communications by taking steps to amplify the voices of people with disabilities within the Organization, as well as offering disability awareness training to staff. The Office could also look to establish networks of staff at country office level and globally to coordinate, monitor and oversee progress against indicators and targets.

- 59. A Government representative of Ethiopia** commended the Office for the document and took note of the ILO's commitment to become a fully disability-inclusive organization. Persons with disabilities often faced obstacles to participation in their national economies, such as inaccessible transportation, limited access to assistive technologies and societal stigma. Her Government had taken steps to promote disability inclusion in healthcare settings, employment legislation and national plans, and had been working with the ILO to enhance employment, entrepreneurship and skills development among persons with disabilities. All stakeholders should cooperate more closely to promote disability inclusion. Her Government looked forward to the Office's continued support in improving the well-being of persons with disabilities in efforts to end poverty, discrimination and exclusion, and ensure decent work and social justice for all.
- 60. A Government representative of Barbados** congratulated the Office on its continuing leadership on disability inclusion and commended its efforts to consult with staff members with disabilities as well as those with dependants with disabilities. The inclusion of persons with disabilities was an important component of a human-centred approach to development and social justice; discussions on ideas such as decent work and just transitions must therefore contemplate ways to ensure that all people, including those with disabilities, could lead productive and fulfilled lives.
- 61.** The Declaration of Philadelphia was relevant to the present discussion, because, like race, creed and sex, disability can be used as grounds for stigma, discrimination, exclusion and violence and harassment. Persons with disabilities often experienced discrimination that prevented them from occupying their rightful roles in societies and nation-building. The ILO should continue to spearhead a rights-based, gender-responsive approach to rectify that discrimination and address societal dynamics and power imbalances. History had long taught that countries could not protect their citizens while permitting discrimination; his Government had therefore recently adopted legislation prohibiting all forms of discrimination in employment.
- 62.** The eight guiding principles set out in the document would help to translate good intentions into actions. It would be a progressive step for the ILO to engage with civil society organizations in social dialogue on disability inclusion and should take the lead in the mainstreaming of disability inclusion to ensure the sustainability of the proposed policy and strategy. All communications from the ILO, Member States and other organizations should be inclusive and respectful of persons with disabilities.
- 63. A representative of the Director-General** (Deputy Director-General for Policy) welcomed the Governing Body's strong support, insights and useful suggestions that would be very helpful in finalizing the disability inclusion policy and preparing the multiannual strategies. Through the policy, the Office was particularly seeking to address disability inclusion internally, and this, in turn, would ensure it would be better prepared to address disability inclusion in its work with ILO constituents.

64. In response to calls for disability inclusion to be addressed more proactively in social dialogue processes, she said that the policy's guiding principles would be revised to make specific reference to collective bargaining and freedom of association. The revised policy would also reflect the ILO's ongoing collaboration with the UN and its leadership role in disability inclusion. Responding to a call for a sharper focus on the intersectionality of disability and other dimensions, she recalled that the Office's disability team was part of its Gender, Equality and Diversity and ILOAIDS Branch (GED/ILOAIDS) and therefore had access to the technical competence required to address disability inclusion through an intersectional lens. The Office would ensure that the policy would be gender-responsive.
65. She expressed her appreciation for the Governing Body's support for the development of ambitious indicators and targets to measure progress; those targets would be set out in multiannual strategies, the first of which would cover the period 2021–23 and would be uploaded to the ILO's website in early 2021 following approval by the Senior Management Team. The Office would take on board the suggestion made by the Employers' group regarding the establishment of baselines and setting of targets for each indicator in those multiannual strategies alongside the timelines and measures to be adopted. The guidance received from the Employers' group would also prove valuable in the Office's revision of the 2005 ILO Policy on the employment of persons with disabilities.
66. In response to concerns raised by the Workers' group, she said that the Office would prioritize the inclusion measures raised by workers and by IMEC, in particular measures to enhance the accessibility of ILO meetings and documents, and agreed that the Office would benefit from listening to the experiences of constituents, including those with disabilities, to inform the implementation of the policy.
67. Acknowledging the need to promote disability inclusion at ILO headquarters and field offices, she confirmed that many field offices were paying closer attention to disability inclusion with the help of UNDIS. Furthermore, any element of the policy affecting the working conditions of ILO staff, including staff with disabilities and those with dependants with disabilities, would be addressed through the Office's internal social dialogue mechanism and the Office would normally seek the ILO Staff Union's support to hold broader consultations with those staff members.
68. The Office had obligations arising from UNDIS to produce guidelines on how to undertake consultations with organizations of persons with disabilities, which would be particularly relevant to ILO field offices. Those guidelines would promote gender-responsive consultations, taking into account other dimensions such as gender and migration status, and could facilitate the role of constituents in the consultation process. The UN Country Team Accountability Scorecard on Disability Inclusion adopted earlier in the year would require each UN Country Team to report annually on the inclusion of persons with disabilities in their work and was expected to foster country-level inter-agency collaboration on disability inclusion. Progress on the scorecards would be taken into account in the development of ILO strategies. Finally, she assured constituents that the ILO had participated in the UN procurement network that had recently developed guidance on disability-inclusive procurement.
69. The Office would align its work with UNDIS, ensuring accountability and developing measurable targets. She welcomed the amendment to the draft decision proposed by IMEC and ASPAG.

- 70. The Employer and Worker spokespersons** expressed their appreciation for the comments made by the Deputy Director-General for Policy.

Decision

71. The Governing Body:

- (a) requested the Director-General to finalize and implement the ILO policy on disability inclusion set out in the appendix to document GB.340/INS/9, taking into account the guidance provided during the discussion;
- (b) instructed the Office to put in place multiannual strategies to implement the ILO policy on disability inclusion, beginning in 2020–23, in the light of the United Nations Disability Inclusion Strategy;
- (c) instructed the Office to conduct monitoring that coincides with the reporting period for the implementation of the accountability framework established by the United Nations Disability Inclusion Strategy, and to provide to the Governing Body a report for information, on a biennial basis, starting in its 346th Session, on progress and areas for improvement, including a summary of the annual reporting to the UN on its implementation of United Nations Disability Inclusion Strategy; and
- (d) requested the Director-General to pursue the ILO's mandate to promote disability inclusion in the implementation of current and future ILO strategic plans and corresponding programmes and budgets, and to facilitate extrabudgetary resources, taking into consideration the guidance provided during the discussion.

(GB.340/INS/9, paragraph 9, as amended by the Governing Body)

10. Guatemala: Progress report on action taken on the follow-up to the decision adopted by the Governing Body at its 334th Session to support the National Tripartite Agreement of November 2017 aimed at implementing the road map (GB.340/INS/10)

- 72. The Worker spokesperson** expressed her group's extreme disappointment at the lack of progress made by four successive governments of Guatemala in complying with the road map. That had led to a deeply concerning increase in violence against trade union leaders and members, including 12 instances of murder in 2020 alone, that was routinely met with impunity. Reports from workers in Guatemala that the situation was worsening had validated the concerns raised by the Workers' group regarding the closure of the article 26 complaint procedure against Guatemala.
- 73.** Protection measures for trade union leaders at risk of violence were not working, and the protocol for the implementation of immediate and preventive security measures for trade union members ceased to be valid in 2018 without being replaced. The systematic failure of State institutions such as the Ministry of the Interior, the judiciary and the Public Prosecutor's Office to abide by fundamental principles had resulted in hundreds of unfair dismissals without enforcement of reinstatement orders, a lack of accountability among offending employers and diminished trust in the State. The Ministry of Labour and Social Welfare had also deliberately imposed unachievable requirements for trade union registration that had made dozens of unions illegal in order to facilitate the dismissal of workers by unscrupulous employers.

74. Trade unions had demonstrated their commitment to resolving such issues through social dialogue by attending meetings of the National Tripartite Committee on Labour Relations and Freedom of Association, despite the challenges posed by the COVID-19 pandemic; however, the Guatemalan authorities had not shown the same level of commitment. Furthermore, the Government had not yet approved a bill in Congress to institutionalize the National Tripartite Committee, as noted by the Workers' group at previous sessions of the Governing Body. The situation brought about by the pandemic should be viewed as an opportunity to expand labour rights to all workers as a way out of the crisis. Guatemala would not recover from the emergency unless trade unions were part of the solution.
75. She expressed hope that the technical cooperation programme "Strengthening of the National Tripartite Committee on Labour Relations and Freedom of Association in Guatemala for the effective application of international labour standards" developed by the Office would result in the rapid and full implementation of the road map with the active participation of the social partners, and appealed to donors to finance the programme. The Governing Body must continue to monitor the situation in order to maintain its credibility and signal that Guatemalan workers would still receive the attention they deserved. The Workers' group therefore proposed adding the following subparagraphs to the draft decision:
- (b) welcomed the ILO technical cooperation programme "Strengthening of the National Tripartite Committee on Labour Relations and Freedom of Association in Guatemala for the effective application of international labour standards" and called upon governments to contribute to its funding; and
 - (c) requested the Office to report annually on its implementation at its October-November sessions.
76. **The Employer spokesperson** noted that the present situation in Guatemala was not the same as article 26 cases. The Government of Guatemala was clearly willing to cooperate in taking action on the road map. Guatemala was facing obstacles to the full implementation of fundamental rights, such as limited resources, weak institutions and a large informal economy, but it was not a country where citizens were systematically prosecuted for their political views or membership of employers' or workers' organizations. While significant regulatory changes were needed, it was more important to improve compliance with current regulations that served as a basis for the implementation of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98). It was vital to ensure that freedom of association was respected, especially in areas where trade unionists and other vulnerable groups were targets of violence, and to build trust among the social partners by abandoning confrontational approaches and encouraging responsible engagement among all actors. The creation of the National Tripartite Committee was a very important step forward, which had a strong support not just from the ILO, but also from the International Organisation of Employers (IOE) and the International Trade Union Confederation (ITUC).
77. The most representative employers' organization in Guatemala, the Coordinating Committee of Agricultural, Commercial, Industrial and Financial Associations (CACIF), had demonstrated its full commitment to the National Tripartite Committee, taken a proactive approach to tripartite dialogue, seized opportunities to develop further action-oriented proposals and sought support from the Office to overcome challenges to social dialogue. However, to be able to function, the Committee needed all three groups, and

the workers had to play their respective role to work constructively towards achieving the elements of the road map on the basis of consensus.

78. The progress made in the implementation of the road map, while slow, should not be overlooked, especially given the threat posed to those achievements by the COVID-19 pandemic. The Office should strengthen its support to enable the Government and the social partners to continue making progress. He called on the international community to contribute to the financing of the technical cooperation programme to strengthen the National Tripartite Committee developed by the Office to help to promote and enhance freedom of association and collective bargaining in Guatemala.
79. While the Employers' group supported the original wording of the draft decision, it could also support subparagraph (b) of the Workers' proposed amendment, The group could also support a subamendment proposed in writing by the European Union and its Member States to replace, at the end of subparagraph (b), "governments to contribute to its funding" with "the Office to mobilize sustainable sources of funding for its implementation". In principle, the Employers' group would not support subparagraph (c) of the Workers' group's amendment but it would confirm its position after listening to Government members in that respect
80. **The Government representative of Guatemala** (Minister of Labour and Social Welfare) noted that the National Tripartite Committee on Labour Relations and Freedom of Association had approved the ILO's programme of technical assistance and a work plan. The National Tripartite Committee was of vital importance for sharing opinions and reaching holistic solutions to labour issues in Guatemala. Its members had decided to expand its scope to include matters relating to economic recovery, the creation of decent work, and addressing challenges resulting from the pandemic, as well as facilitating a constant dialogue on the ILO Conventions that Guatemala had and had not ratified. The Government had taken seriously the comments made by members of the Governing Body at its 337th Session (October–November 2019) on the importance of effective social dialogue, and reiterated the request for States to provide financial contributions and support to the technical cooperation programme.
81. Concerning efforts to reform the Labour Code to comply with international labour standards, the Subcommittee on Legislation and Labour Policy of the National Tripartite Committee and various sectors would have assistance from an expert, thanks to support from the Office. The judiciary had transformed the labour courts into multi-judge panels, and there were 21 additional judges and 72 judicial assistants specialized in matters relating to labour and social welfare in the largest areas of the country. Digital tools were being implemented to streamline processes, and there had been an increase in documents served electronically.
82. The Government representative of Guatemala said that, in reaction to the concern regarding the number of deaths of labour rights defenders reported by trade unions, the Government reiterated its unfettered commitment to applying the ILO's fundamental Conventions, particularly those concerning freedom of association and collective bargaining. A declaration and undertaking had been signed by relevant State institutions that recognized that any efforts by the Government would be undermined if the deaths of trade union leaders and members could not be prevented or prosecuted. The Public Prosecutor's Office had strengthened its investigation of crimes against trade unionists, having reclassified the unit responsible as a specialized division for crimes against judicial officials and trade unionists and increased its financial and human resources. Additionally, efforts had begun to update Directive No. 01-2015 on the investigation and prosecution of crimes committed against union members and other

labour and trade union activists, in consultation with representatives of workers. To date, 26 verdicts had been handed down in cases involving the death of trade unionists. The Ministry of the Interior was continuing to apply the protocol for the implementation of immediate and preventive security measures for trade unionists prior to risk assessments being carried out by the Personal Protection and Safety Division of the National Civil Police, which had been allocated a significant budget.

83. The Ministry of Labour and Social Welfare monitored the application of international labour Conventions and had taken steps to ensure that the management of registration procedures for trade unions and their members adhered to national and international standards. With a view to improving the protection of labour rights, the Government had also approved the technical assistance and cooperation programme, which included that matter as its second outcome. The COVID-19 pandemic had brought challenges, but also forged institutional will to further strengthen freedom of association.
84. He thanked the ILO, IOE and ITUC for their valuable support, and commended the work of the members of the National Tripartite Committee in generating the trust necessary to maintain social dialogue and strengthen the capacity to resolve the outstanding issues at the national level. The report had been submitted on a tripartite basis, taking into account all views despite the fact that there had not always been agreement. The Government would continue to work to address the concerns expressed, seeking a culture of change and an institutional response that was efficient and was focused on the needs of trade union members and leaders. The Government would maintain its commitment to fully complying with national and international labour legislation, despite the economic challenges facing the country.
85. **Speaking on behalf of the vast majority of countries of Latin America and the Caribbean**, a Government representative of Barbados commended the progress made by the tripartite constituents in implementing the road map and consolidating social dialogue. He noted in particular the joint declaration and undertaking between the Public Prosecutor's Office, the Ministry of Interior and the Ministry of Labour and Social Welfare, signed on 22 October 2020, to improve and accelerate inter-institutional coordination to guarantee the full application of labour rights and strengthen institutional capacities. He encouraged the employers and workers to maintain tripartite social dialogue through the National Tripartite Committee, with the support of the ILO. He invited the authorities of the executive, legislative and judicial branches and the Public Prosecutor's Office to redouble their efforts in relation to the road map in order to consolidate social dialogue and the work carried out by the National Tripartite Committee and to guarantee the application of Convention No. 87. He supported the draft decision.
86. **Speaking on behalf of the European Union and its Member States**, a Government representative of Germany said that North Macedonia, Montenegro, Albania and Norway aligned themselves with the statement. She recalled the commitment undertaken by Guatemala under the EU Central America Association Agreement to effectively implement, in law and in practice, the fundamental ILO Conventions and took note of the recent developments on labour relations and freedom of association, as outlined in the report. Notwithstanding the closure of the article 26 procedure at the 334th Session of the Governing Body, the EU continued to closely follow progress on issues related to the implementation of Convention No. 87 and to closely engage with Guatemala on labour issues.
87. She noted with regret that, based on the constituents' observations, limited progress had been made in implementing the National Tripartite Agreement of November 2017

and the road map adopted in 2013. She noted with strong regret the continued anti-union discrimination and violence, and emphasized that the protection of trade union leaders and activists must be ensured. Investigations into the deaths of trade union leaders and trade unionists must continue in order to ensure prompt and full accountability and justice. If prevention, protection and response mechanisms relating to threats and attempts against trade union officials and activists were not strengthened, the situation was likely to continue. She also noted with strong regret the lack of progress in incorporating the amendments proposed by ILO supervisory bodies into the Labour Code. The long-overdue institutionalization of the National Tripartite Committee was disappointing. The technical cooperation programme must be implemented without delay in order to address all of the pending issues under the road map.

88. Referring to the Workers' proposed amendment to the draft decision, she proposed a subamendment to replace, at the end of subparagraph (b) "governments to contribute to its funding" by "the Office to mobilize sustainable sources of funding for its implementation".
89. **A Government representative of the United States of America** recalled that, at the 334th Session of the Governing Body, his Government had been strongly in favour of keeping the article 26 procedure open, in order to ensure that the Government of Guatemala honoured its commitments under the road map. He expressed deep concern about the Government's failure to make meaningful progress on its commitments during the two years since the closure of the procedure. No progress had been made in bringing the Labour Code into conformity with Conventions Nos 87 and 98; the Government had failed to institutionalize the National Tripartite Committee through legislation; and the continuing allegations of acts of violence and harassment against, and murders of, trade unionists in Guatemala were deeply troubling.
90. He urged the Government to fully implement the commitments made in 2018 by improving investigative processes and increasing the number of successful prosecutions for acts of violence and murder against trade unionists. In that connection, he asked for more information on the decision of the Public Prosecutor's Office No. 70-2019 that established the Unit for Crimes against Judicial Officials and Trade Unionists and its impact. The Government must also: create a safe and enabling environment that allowed workers to freely exercise their rights, including by strengthening prevention and protection mechanisms; adopt consensus legislation to bring Guatemalan law into compliance with international standards on freedom of association and collective bargaining, including by institutionalizing the National Tripartite Committee through legislation; strengthen the process for registering trade union organizations and collective agreements on working conditions; and significantly increase the percentage of reinstatement orders implemented in a timely manner for workers that were victims of anti-union dismissals and enact enforceable measures to protect workers from such dismissals. He called on the Government to fully implement those recommendations in close cooperation with the social partners and the Office.
91. His Government supported the amendment to the draft decision proposed by the Workers' group and the subamendment thereto proposed by the EU.
92. **A Government representative of the United Kingdom** recalled the international commitments undertaken by Guatemala and welcomed the progress that had been made, but remained concerned that, based on the observations made by the trade union federations, there had been limited engagement by the Government, slow progress in implementing the road map and further cases of anti-union discrimination and violence. She encouraged the new Government and the Congress of Guatemala to continue an

open dialogue and consultations to achieve the application of fundamental principles and rights at work.

93. Limited progress had been made towards adopting the bill to confirm the institutionalization of the National Tripartite Agreement and approving the reforms needed to bring domestic legislation into line with Convention No. 87, specifically in relation to the establishment of sectorial unions and their participation in collective bargaining. However, she commended the implementation of the recommendations made by the National Tripartite Committee to the Public Prosecutor's Office on the Special Investigation Unit for Crimes against Trade Unionists. It was essential to strengthen that unit and to continue investigations into the deaths of trade union leaders and activists. She urged the Ministry of the Interior to follow the recommendations to ensure the protection of trade union leaders and unionists. Although she welcomed the implementation of the technical cooperation programme, the progress promised when the procedure relating to the complaint had been closed had not been delivered.
94. Her Government supported the amendment to the draft decision proposed by the Workers' group and the subamendment thereto proposed by the EU.
95. **A Government representative of Canada** said that, while her Government appreciated the efforts made by the Government of Guatemala and its social partners over the course of the year, especially in the context of the pandemic, much work remained to be done to fully implement the road map. She called on the Government to prioritize the prompt and effective protection of at-risk trade union leaders and labour representatives and efforts to properly investigate acts of violence against trade unionists. Perpetrators and instigators should be brought to justice in a timely manner and in accordance with the rule of law and due process. She also called on the Government to launch, without delay, an enhanced, nationwide awareness-raising campaign on the right to freedom of association developed in consultation with the social partners. Such a campaign would be key to promoting a violence-free labour relations climate.
96. She welcomed the recently approved technical cooperation programme to strengthen the National Tripartite Committee and its work towards the effective application of international labour standards in Guatemala, which she hoped would lead to timely and comprehensive labour law reforms to align national legislation with the principles of Convention No. 87. Those reforms should be the result of genuine and constructive tripartite dialogue. She encouraged the Government to continue to engage closely with the Office and to avail itself of technical assistance as necessary, as that was key to making tangible progress.
97. Her Government supported the amendment to the draft decision proposed by the Workers' group and the subamendment thereto proposed by the EU.
98. **The Employer spokesperson** said that, in the light of the comments made, his group could support the amendment to subparagraph (c) proposed by the Workers' group, if it was rendered less open-ended by including explicit reference to the submission of a report in October–November 2021.
99. **The Worker spokesperson** said that trade unions in Guatemala were cooperating fully with the country's tripartite structures, which had only recently become functional. The seriousness of the situation in Guatemala should not be understated. While the Government had repeatedly expressed goodwill, evidence of progress on the ground was now needed. The Workers would accept the subamendment proposed by the EU provided that emphasis was placed on the need for funding, including from the

Guatemalan Government. Subparagraph (c) of the draft decision should include a requirement for annual reporting until the road map had been implemented.

- 100. The Minister of Labour and Social Welfare of Guatemala** said that preparing the technical cooperation programme and the work plan of the National Tripartite Committee had been a major undertaking, involving a process of dialogue among the parties concerned that had enabled agreement to be reached on the measures to be included. Although the programme lacked the necessary funding, his Government was making significant efforts to continue to meet its international commitments, including in respect of compliance with Convention No. 87, and the significant budgets allocated to the related bodies, including the Public Prosecutor's Office and the Personal Protection and Safety Division of the Police, demonstrated its financial commitment. He reiterated that, despite the budgetary constraints, efforts were under way to improve access to justice. He also reiterated his Government's appreciation of the support provided by the Office, especially with respect to the appointment of an expert to provide technical assistance in the process of legislative reform.
- 101.** There was a need to further strengthen the capacity of the National Tripartite Committee, which had been operating on the basis of an agreement that had not yet been enshrined in law, and which was an important forum for dialogue and for finding comprehensive solutions to the labour issues faced in Guatemala. His Government had complied with the terms and conditions of the National Tripartite Agreement of November 2017, and would continue its efforts to implement the ILO Conventions, including in the context of the technical cooperation programme.
- 102. The Worker spokesperson** proposed that subparagraph (c) of the draft decision should include a requirement for annual reporting for the duration of the technical cooperation programme, which was three years.
- 103. The Employer spokesperson** said that, given that violence was commonplace in Guatemala, it could not be stated definitively that the tragic murders of the 12 trade unionists in 2020 were related to their trade union activities; the Governing Body should be careful not to make assumptions in that regard. The Employers welcomed the amendments submitted by the EU regarding funding because the programme had the potential for extremely positive outcomes and was therefore worthy of support. Consultation within his group was required with regard to the requirement for annual reporting for three years, as suggested by the Worker spokesperson.
- 104. The Chairperson** said that there appeared to be consensus on subparagraphs (a) and (b). The only point of disagreement in relation to subparagraph (c) related to the frequency of reporting.
- 105. The Worker spokesperson** agreed that further consultations might help to achieve as close to full consensus as possible and called upon participants to refrain from speculating on the motives behind the trade unionists' murders.

(The Governing Body resumed consideration at a later sitting.)

- 106. The Worker spokesperson** recalled that the Employers' group had objected to the seemingly open-ended reporting requirement in the proposed subparagraph (c). A compromise proposal had been put forward, to limit the annual reporting to the duration of the technical cooperation programme, which had been accepted by the Government group. She asked why, if the Employers' group disagreed with that proposal, it had not informed the other constituents sooner.

- 107. The Employer spokesperson**, referring to the proposed subparagraph (c), said that, as the article 26 procedure had been closed, there was no longer a requirement for reports to be submitted to the Governing Body under that procedure, and certainly not in an open-ended manner. He requested more time to consider the proposal in the spirit of compromise, noting that he would like to consult further with his colleagues in Guatemala. The question of reporting was not an insignificant one.
- 108. The Worker spokesperson** said that the reporting requirement was an institutional one, affecting only the Government of Guatemala, and asked why the Employer's group needed to hold further discussions on the matter with national employers' representatives. Furthermore, she reiterated that the article 26 procedure had been closed against the will of several trade unions in Guatemala and against the will of her group. As the Governing Body had agreed to a technical cooperation programme to improve the situation in the country, it was appropriate that the results of that programme should be reported to it. It was difficult to understand how the Employers could not accept a request for annual reporting on a programme that had a duration of three years, given the strong concerns about the situation in Guatemala. It was especially difficult to understand the Employers' position given that – although there was no link between the discussions – the Workers were being asked to agree on a way forward to secure compliance with the recommendations of the Commission of Inquiry for the Bolivarian Republic of Venezuela in the context of the discussions on document GB.340/INS/13. However, in the spirit of compromise, she was prepared to postpone the discussion in order to hold further consultations.
- 109. The Employer spokesperson** agreed that there was no link between the two items, and emphasized his group had never suggested that there should be no reporting requirement.
- 110. The Chairperson** said that the matter of reporting requirements should not be insurmountable, and he urged the constituents to seek an agreement.
- (The Governing Body resumed consideration of the item after the Office circulated a revised draft decision following consultations.)*
- 111. The Worker spokesperson**, recalling that the Workers were of the view that the Office should be requested to report annually for the duration of the three-year programme, said that, following consultations, the Workers and the Employers had agreed on an amended text that they hoped would lead to a consensus on the draft decision.
- 112. The Employer spokesperson** introduced the proposed text, in which subparagraph (b) read “welcomed the ILO technical cooperation programme ‘Strengthening of the National Tripartite Committee on Labour Relations and Freedom of Association in Guatemala for the effective application of international labour standards’ and called for funding for its implementation;” and subparagraph (c) read “requested the Office to report annually on its implementation at its next October–November session and for the duration of the programme”. He hoped that the proposal would meet with the Governing Body's approval.
- 113. Speaking on behalf of the European Union and its Member States**, a Government representative of Germany said that Montenegro, Albania and Norway aligned themselves with the statement. Noting that little progress had been made in the implementation of the National Tripartite Agreement of November 2017 and road map of 2013, she expressed the hope that the technical cooperation programme would be implemented without delay and that the Office would report on progress made throughout the implementation period, in particular progress made in addressing all

pending issues of the road map. She therefore supported the amended text of the draft decision as proposed by the Employers and the Workers.

Decision

114. The Governing Body:

- (a) **took note of the report of the National Tripartite Committee sent by the Government and of the supplementary document communicated by the trade union federations;**
- (b) **welcomed the ILO technical cooperation programme “Strengthening of the National Tripartite Committee on Labour Relations and Freedom of Association in Guatemala for the effective application of international labour standards” and called for funding for its implementation; and**
- (c) **requested the Office to report annually on its implementation at its October–November sessions for the duration of the three-year programme.**

(GB.340/INS/10, paragraph 38, as amended by the Governing Body)

- 115. The Minister of Labour and Social Welfare of Guatemala** reaffirmed the political will of his Government to continue implementing the ILO Conventions, including those highlighted in the technical cooperation programme. He reiterated the Government’s ongoing commitment to cooperate with the ILO supervisory system and to implement the decisions made by the supervisory bodies. The technical cooperation programme was highly important and the Government would make every effort to fulfil its commitments to ensure its success. It was paramount to strengthen the capacities of the National Tripartite Committee, which had promoted social dialogue from the outset and provided an opportunity to maintain and further develop a platform for dialogue and agreement on the different views of the social partners and to work towards effective labour relations in Guatemala. He thanked the ILO, the IOE and the ITUC for their ongoing and valuable support.

11. Progress report on the technical cooperation programme agreed between the Government of Qatar and the ILO (GB.340/INS/11)

- 116. A representative of the Director-General** (Head, ILO Project Office for Qatar) said that the achievements of the ILO technical cooperation programme included the dismantling of the *kafala* sponsorship system in Qatar; the removal of the requirement for an exit permit for almost all workers and for a no-objection certificate for workers who wished to change employment; and the introduction, from March 2021, of a non-discriminatory minimum wage. Those measures also applied to domestic workers. Since the publication of the report, Qatar’s Council of Ministers had endorsed a decree to improve protection from heat stress for workers, and the country had completed its first prosecution of human trafficking for forced labour. Those achievements would not have been possible without the political commitment of the Government of Qatar, and the ILO looked forward to supporting the country in its ambitious labour reform agenda.
- 117. The Employer spokesperson** said that the excellent progress in Qatar should serve as a model response to the ILO supervisory system. The reforms not only represented a milestone for workers’ rights, but were also important for employers, given that they would increase dynamism and mobility in the labour market, attract more talent and make Qatar a more appealing prospect for investment and trade. The reforms illustrated

the power of strong and representative social partner organizations to shape and support fundamental changes; social partners at all levels, including the Qatar Chamber of Commerce and Industry, as well as civil society organizations and other actors had supported the Government's efforts. The ILO project office in Qatar had played a critical role and fully used the convening power of the ILO to engage all constituents. The Employers' group was firmly committed to continuing support for Qatar and its national social partners in implementing the remaining reforms.

- 118. The Worker spokesperson** said that the technical cooperation programme reflected the Qatari Government's commitment to ensuring compliance with the international labour Conventions that it had ratified. Her group welcomed the progress made in a range of areas, including the adoption of minimum wage legislation; an occupational health and safety (OSH) policy, with emphasis on work in extreme heat; protection for domestic workers; capacity-building for labour inspectors; the fair recruitment pilot project; work towards the ratification of the Protocol of 2014 to the Forced Labour Convention, 1930; a complaints mechanism; and a draft ministerial decree on procedures for collective negotiation and joint agreements. Nevertheless, there remained areas of concern, such as the lack of clarity on the abolition of exit permits; reports of ongoing exploitation of foreign domestic workers, including by recruitment agencies; and the further work required to bring about real freedom of association. The Workers' group would continue to support the technical cooperation programme beyond 2022, to ensure that outstanding issues were implemented.
- 119. Speaking on behalf of ASPAG**, a Government representative of Japan said that his group commended the Government of Qatar for its commitment to the technical cooperation programme and welcomed the significant progress made. The major reforms included the removal of the requirements for exit permits and no-objection certificates and the introduction of a non-discriminatory minimum wage, which was particularly important given the economic uncertainty brought about by the COVID-19 pandemic. He noted with satisfaction the Qatari Government's efforts to promote workers' voices, including by electing workers' representatives to joint committees of private companies and public bodies. The work in Qatar exemplified what could be achieved through constructive dialogue and effective cooperation among the constituents and the ILO. He urged the Government to pursue its efforts in promoting the rights of migrant workers.
- 120. Speaking on behalf of the European Union (EU) and its Member States**, a Government representative of Germany said that North Macedonia, Albania and Norway aligned themselves with her statement. The EU and its Member States lauded the active engagement of the Government of Qatar with the technical cooperation programme and welcomed all the positive developments outlined in the report, in particular the introduction of a non-discriminatory minimum wage; adoption of a national OSH policy and the implementation of the National Action Plan on Heat Stress; and the strengthening of labour inspection. The Government's work to replace the *kafala* system was a momentous change and crucial to combating forced labour. The programme's focus on sectors with high decent work deficits and the development of related partnerships was welcome. She encouraged the implementation of the recommendations of the Ministry of Administrative Development, Labour and Social Affairs and the ILO in their joint review of the country's dispute resolution mechanism. Commending the promotion of social dialogue at the sectoral level through the establishment of working groups for joint committees in different sectors, supported by the International Trade Union Confederation, the International Domestic Workers Federation and other agencies, she urged Qatar to continue its efforts. The EU and its Member States strongly supported labour legislation reform in Qatar and encouraged

the Government to implement and enforce the new laws effectively, in close cooperation with the ILO. The Organization's support for the reform process, including through projects implemented jointly with the EU, was commendable. The EU and its Member States would continue to lend support to the Government of Qatar and the ILO, and endorsed the draft decision.

- 121. A Government representative of the United States** commended the Government of Qatar for its efforts to make decent work a reality for all those working in the country, but emphasized that the notable progress made in adopting new laws must now be followed by implementation and enforcement of reforms. Although Qatar had taken several important steps to improve its wage protection system and monitor wage-related violations, prominent human rights organizations still reported that many employers continued to pay their workers late, or failed to pay wages at all. Additional work was required to strengthen the labour inspectorate's capacity to ensure that all workplaces were safe and healthy, and that all workers received their rightful wages and benefits. Further efforts must also be made to provide protection for domestic workers who suffered abuse in private homes, to ensure that employers complied with the new laws that enabled workers to change jobs and leave the country without permission, and to continue to raise public awareness on the rights and protection of workers. His Government looked forward to continued cooperation under the memorandum of understanding between the United States Department of Labor and Qatar's Ministry of Administrative Development, Labour and Social Affairs. He supported the draft decision.
- 122. A Government representative of India** commended the Qatari Government on its achievements under the five pillars of the technical cooperation programme and on its commitment and collaboration with the ILO and the tripartite constituents throughout the implementation of the programme. The achievements exemplified the benefits of constructive dialogue and effective collaboration between governments, workers and employers together with the ILO.
- 123. A Government representative of Canada** welcomed the many positive reforms undertaken by the Government of Qatar. However, as the success of the reforms was dependent on effective implementation and consistent enforcement, she urged the Government of Qatar to further strengthen inspection capabilities and enforcement efforts and systematically penalize those who failed to comply. She encouraged the Government to ratify and fully implement the Protocol of 2014 to the Forced Labour Convention, 1930, at the earliest possible opportunity. The Government should pursue its labour law reform efforts and ensure that all reforms were the result of genuine and effective tripartite social dialogue and consistent with international labour standards. It should also continue to foster a close partnership with the ILO and keep the Organization informed of all further labour law and policy developments. She supported the draft decision.
- 124. A Government representative of Switzerland** recognized the measures taken by the Qatari Government to dismantle the *kafala* system and welcomed in particular the passing of legislation removing restrictions on migrant workers' ability to change jobs and establishing a non-discriminatory minimum wage. Effective implementation of the new laws would require firmly establishing them in practice, and ensuring strict compliance through the provision of legal guarantees. She encouraged the Government to continue its progress by focusing on the implementation of its reforms, on which Switzerland would willingly collaborate.
- 125. A Government representative of the United Kingdom** welcomed the historic labour reforms legislated by the Government of Qatar, which must be implemented swiftly and

comprehensively. Legislative change worked best when supported with real compliance mechanisms, and the strengthening of the wage protection system would help safeguard against slack implementation. The creation of a working group to collect lessons learned and disseminate experiences of reform was encouraging, and the renewed emphasis on data collection and analysis was of particular importance. The developments on dispute resolution and rules and procedures for collective negotiation were promising, and it would be interesting to see the implementation of the electronic gateway and the progression of the Workplace Cooperation Unit. She expressed the hope that the Government would continue working in close partnership with the ILO beyond the end of the programme, and supported the draft decision.

- 126. A Government representative of Qatar** (Minister of Administrative Development, Labour and Social Affairs) confirmed that a minimum wage law, the first of its kind in the region, had been adopted in 2020. Furthermore, laws facilitating a change in employer and abolishing the exit permit requirement for migrant workers had been adopted, penalties had been introduced for employers who did not commit to providing adequate housing for workers, and penalties had been tightened for failure to pay wages on time. The previous month, a ministerial decree had been endorsed by the Council of Ministers which established measures to protect workers from heat stress and which applied international standards for assessing heat stress. Law enforcement agencies in Qatar had succeeded in prosecuting perpetrators of human trafficking crimes, in compliance with Qatar's national and international obligations to protect and promote human rights.
- 127.** The Qatari Government had signed memoranda of understanding with several countries and international bodies for cooperation and studies on various labour issues and to combat trafficking in persons, and was always willing to engage in cooperation and exchange of knowledge with further countries. As a result of the labour reforms and international cooperation, the Qatari labour market had become efficient and competitive, the production process had been enhanced, and a balanced work environment had been created. The positive results of the technical cooperation programme had helped improve the level of human resources and enhance the working and investment environment in the country, which would not have been achieved without the fruitful tripartite cooperation and the contributions of the Office. His Government conveyed its appreciation to the team of the ILO project office and looked forward to having a permanent office in Doha with long-term cooperation and consultation in labour matters. The Government would continue its work with the ILO to achieve common goals in line with Qatar National Vision 2030.
- 128. The Worker spokesperson** said that, while merely noting the report did not do justice to all that had been achieved in Qatar, her group supported the draft decision. Further progress was still required, but she expressed confidence that with the continued commitment of the Qatari Government, the support of the ILO and the critical but constructive role played by the social partners, the necessary improvements would be seen in workers' lives in practice.
- 129. The Employer spokesperson** thanked the Minister for his statement. The reflections shared by the various other governments in the discussion were in line with the Employers' observations. His group looked forward to seeing further improvement.
- 130. The Director-General** acknowledged with gratitude the very positive comments made by Governing Body members about the work of the ILO team in Doha, who were a credit to the Organization. The achievements recorded in the progress reports were the best possible testimony of how the ILO's normative system, supervisory mechanism and technical cooperation could be combined to produce tangible results to improve the

working lives of people in need of the Organization's help and support. None of it would have been possible without the active engagement, support and interest of the tripartite constituents, both in Qatar and internationally. It was necessary to build on the positive outcomes achieved and the ILO would continue to be at the disposal of the authorities in Qatar to ensure future progress.

Decision

131. The Governing Body took note of the report on ILO activities in Qatar.

(GB.340/INS/11, paragraph 67)

12. Progress report on the follow-up to the resolution concerning remaining measures on the subject of Myanmar adopted by the Conference at its 102nd Session (2013) (GB.340/INS/12)

- 132. A representative of the Director-General** (Deputy Director-General for Management and Reform), noting that the Myanmar National Tripartite Dialogue Forum (NTDF) had met on 11 September 2020 to discuss the process of recovery from the COVID-19 pandemic, said that the Government of Myanmar's recognition of the value of social dialogue in the recovery was a positive development. The Office was providing a wide range of support to workers and employers in Myanmar, as well as to the Government, in their efforts to tackle the serious effects of the pandemic.
- 133.** Since the progress report had been issued, the number of cases within the scope of forced labour being reviewed by the ILO had fallen from 1,090 to 431. To date, 61 complaints had been received in 2020, 37 of which fell within the definition of forced labour and would accordingly be referred to the national complaints mechanism. The Office was reviewing the draft standard operating procedures for that mechanism, and anticipated that its concerns in that regard could be addressed through the mechanism itself. As a result of four technical meetings of the mechanism, some 315 cases had been closed. The National Forced Labour Complaints Mechanism Committee had been expanded, and both workers and employers were currently represented on that body.
- 134. A Government representative of Myanmar** said that the progress report reflected the tangible and positive outcomes of Myanmar's cooperation with the ILO, and the social partners, in respect of the promotion and protection of labour rights. Through the ILO Liaison Office, Myanmar had been cooperating closely with the ILO for almost two decades. Notable progress had been made in carrying out work in the three priority areas of the Decent Work Country Programme (DWCP), as duly reflected in the report. In addition, action plans had been developed, the Child Rights Law 2019 had been adopted and Myanmar had ratified the Minimum Age Convention, 1973 (No. 138), on 8 June 2020.
- 135.** Considerable progress had also been made in cementing tripartite partnership. The NTDF had been deliberating key issues related to labour law reform and credible and effective national mechanisms. At its 17th meeting, held virtually on 11 September 2020, the NTDF had discussed measures to reduce the risks to workers and employers posed by COVID-19 and to maintain job opportunities, labour law reform and enhanced cooperation with international organizations, including the ILO. At its first meeting, on 17 July 2020, the National Forced Labour Complaints Mechanism Committee had reviewed the standard operating procedures for addressing forced labour. Inter-ministerial and technical working group meetings had been held on pending issues

related to forced labour complaints, children in armed conflict and sexual violence against children in armed conflict. A national action plan on children in armed conflict had been drafted.

136. In October 2019, the Government had launched the Tripartite Technical Working Group on Labour Law Reform. A number of trade unions in Myanmar were working with the Government and participating actively in the International Labour Conference and Governing Body sessions. Since 8 April 2020, the Confederation of Trade Unions of Myanmar (CTUM), the Agriculture and Farmer Federation of Myanmar (AFFM), the Myanmar Industries Craft and Services Trade Union Federation (MICS-TusF) and the Union of Myanmar Federation of Chambers of Commerce and Industry (UMFCCI) had been the social partners in the National Forced Labour Complaints Mechanism Committee.
137. The Government of Myanmar was committed to addressing the challenges posed by COVID-19 through a whole-of-nation approach. It was grateful to the ILO for its continued support on COVID-19 response efforts on labour issues and reiterated its firm commitment to work closely with the ILO and tripartite partners to the benefit of workers and employers in the country. It was imperative that cooperation with the ILO was elevated to a higher level and that the current ILO Liaison Office was upgraded to a country office. Since Myanmar had been making the utmost efforts to implement the decisions of the Governing Body and achieve notable progress, the item should no longer appear on the agenda of future sessions of the Governing Body.
138. **The Worker spokesperson**, welcoming the ratification of Convention No. 138 by the Government of Myanmar, urged the Government to continue to make full use of ILO technical support to implement the obligations under the Convention and to support the social partners in monitoring and enforcement efforts. The Government must implement the Child Rights Law 2019 and provide the necessary resources to that end. The Workers' group acknowledged the relevance of a voluntary self-assessment checklist and toolkit to measure compliance with labour law and freedom of association by members of the Myanmar Garment Manufacturers Association, but those instruments could not replace the Government's obligation to strengthen the role of labour inspectors and the obligation of employers to protect workers and unions who voiced concerns about failures to comply with labour laws and international labour standards.
139. While welcoming the launch of the national occupational safety and health training centre, she regretted that the fundamental and operational regulations to complete the Occupational Safety and Health Law and enable its effective enforcement had yet to be adopted. High-risk sectors required particular attention in enforcement of OSH legislation. She welcomed the implementation of the comprehensive Social Security Board Information System and the standard operating procedures aimed at improving the efficiency of the employment injury insurance scheme, and expected that the social partners would be fully consulted on the contribution of social security funds made by the Social Security Board to support the COVID-19 Fund and on the distribution of those funds. She would appreciate further information on how much of the COVID-19 Fund had been distributed to insured workers for medical care and income support and how much had been distributed as loans to employers most affected by the pandemic.
140. Despite some progress, forced labour remained a serious concern in Myanmar. The Government should take additional measures, with the support of the social partners and the ILO, to speed up the review of and action taken on allegations of forced labour. Although it recognized that some efforts had been made to develop a framework for dealing with complaints, the Workers' group remained deeply concerned that no new

mechanism and procedures were in place to ensure that there was an impartial, independent and effective means to provide remedy to victims of forced labour and create a credible system of accountability for perpetrators. The Government was urged to establish a mechanism along those lines as soon as possible. The progress report showed that forced labour complaints in Rakhine State and other ethnic minority areas of the country remained unresolved. Furthermore, the report did not provide any statistics on the sanctions imposed against military or civilians for their use of forced labour.

- 141.** It was profoundly regrettable that, despite the efforts of the trade unions to negotiate in good faith, progress had not been made in bringing labour laws into compliance with the fundamental Conventions. Once again, the Government had failed to amend the national constitution, potentially allowing for the continued violation of the Forced Labour Convention, 1930 (No. 29).
- 142.** Despite trade union engagement, no progress had been made on labour law reform. The Labour and Employer Organization Law and its rules had still not been amended. As such, trade unions were still required to form, register and operate under a legal framework that substantially limited the rights to freedom of association and to organize and bargain collectively. While the Settlement of Labour Disputes Law had been amended in 2019, it still had no provisions enabling collective bargaining. The right to strike was severely limited; civil servants and workers in the informal economy appeared to be excluded. In practice, the dispute settlement system remained extremely weak, leaving workers and their unions without legal remedy. The rules had been pending for over a year, with no indication as to when they might be published.
- 143.** There were reports of serious and widespread labour violations in the context of the COVID-19 pandemic. In some cases, employers had used the pandemic to terminate the contracts of union members. Assemblies of more than five persons were prohibited, yet workers were transported together to and from work and were exposed to crowding on assembly lines. The Government, in consultation with the social partners, must ensure that the rights of workers were protected and enjoyed under safe public health conditions. Recalling that seven trade union leaders had been convicted of participating in a protest in Mandalay because they came from outside the region, she emphasized that the right to freedom of association and peaceful assembly must be enjoyed by all workers without discrimination as to place of origin.
- 144.** Referring to the draft decision, she proposed that subparagraph (a) should be redrafted to read:
- (a) ~~acknowledged the progress made~~ steps taken by the Government and the efforts of the social partners since March 2019 in implementing the Decent Work Country Programme (DWCP) and ~~encouraged~~ strongly urged the Government to continue its efforts to cooperate with the ILO and social partners to speed up its efforts to establish a credible and effective national complaints mechanism;

She also proposed that, in subparagraph (c), the word “continue” should be replaced by “speed up”.

- 145. The Employer spokesperson**, after commending the Office for its well-written progress report, congratulated the Government of Myanmar on its ratification of Convention No. 138. He recognized the Government’s ongoing cooperation with the ILO Liaison Office in Myanmar and its engagement with the social partners in its COVID-19 pandemic response. He noted that the National Forced Labour Complaints Mechanism Committee had held its first meeting in July 2020; that there had been promising trends towards the

reduction in forced labour and the elimination of underage recruitment; and that Tatmadaw had been removed from the list of parties recruiting children into the armed forces.

- 146.** Emphasizing the importance of supporting the social partners to enable them to deliver change in countries such as Myanmar, and in particular the value of ACT/EMP and Bureau for Workers' Activities (ACTRAV) in that regard, he expressed his appreciation for the support provided by the ILO Liaison Office to the UMFCCI, the primary employers' organization in the country, especially for the development of business continuity plans, the strengthening of its legal advisory services and the provision of OSH training in the light of the COVID-19 pandemic. The UMFCCI was seeking to conduct voluntary labour compliance audits of its member companies and was keen to benefit from more technical cooperation aimed at raising awareness of labour standards and social dialogue, in view of Myanmar's growing linkages with global supply chains. He requested information from the Office on the options for transforming the ILO Liaison Office into a country office.
- 147.** Employers in Myanmar had made progress in several areas since the 337th Session of the Governing Body. The social partners had been working with the Government during the pandemic to resolve transportation blockages, provide urgent health education to workers and agree on approaches to social security contributions. Furthermore, referring to social dialogue and tripartism in Myanmar, he said that the strong foundations laid in recent years had held fast during the COVID-19 pandemic. The Government of Myanmar should now continue its efforts to amend the national constitution to comply with Convention No. 29, both in law and in practice, and work with the social partners and the ILO Liaison Office on the implementation of the DWCP. He noted the points raised by the Office with regard to the need to further develop the complaints mechanism and supported the proposed areas in which the Office was encouraging the Government to pursue further dialogue, cooperation and action. He noted that it would be prudent for the Governing Body to assess progress in consideration of the context in which stakeholders were operating.
- 148.** Turning to the draft decision, specifically the amendments to subparagraph (a) proposed by the Workers' group, he said that his group would prefer to retain the words "progress made" in the first line, instead of replacing them by "steps taken", given that there was an overwhelming impression that progress was being made. His group would not object to the deletion of the reference to the efforts of the social partners, as the notion of effort was clearly implied. Although the phrase "strongly urged" was perhaps too forceful, given that there had been no suggestion that cooperation would not continue, his group could accept that wording. It could also support the amended wording calling on the Government to "speed up its efforts" to establish a complaints mechanism.
- 149.** With regard to subparagraph (e), his group proposed the deletion of the wording "and, potentially, the implementation of the Better Work programme should it be decided to introduce this initiative in Myanmar". Although his group strongly supported the Better Work programme, operations and organizations should be able to opt into the initiative without being forced to do so, since the genuine interest and participation of enterprises would be key to its success. Furthermore, the DWCP did not include a reference to the Better Work programme, so it was perhaps incorrect to refer to the programme in the context of that subparagraph.
- 150.** Various concerns raised in June 2019 in the Conference Committee on the Application of Standards regarding Convention No. 29 were already being addressed through a robust,

standalone process and should not detract from other matters for discussion in the present forum.

- 151. Speaking on behalf of the European Union (EU) and its Member States**, a Government representative of Germany said that North Macedonia and Norway aligned themselves with the statement. She thanked the ILO for its continuous efforts to promote labour rights in Myanmar and noted the progress made by the Government of Myanmar on the Decent Work Agenda, in particular its continuing tripartite dialogue in the NTDF, the convening of the first meeting of the National Forced Labour Complaints Mechanism Committee and its expansion of social protection coverage. She welcomed its ratification of Convention No. 138; strongly urged the Government to continue its work to ratify and implement the remaining fundamental Conventions; and reaffirmed her group's commitment to continue supporting the Government in strengthening labour rights in the country.
- 152.** However, it was of deep concern that cases of forced labour by the Tatmadaw and non-state actors were still being reported. The proposed national complaints mechanism must be credible, effective and accessible, even by the most vulnerable individuals in conflict-affected areas, and developed in cooperation with the ILO and in consultation with social partners; until its launch, the ILO should continue to receive complaints and help the Government to process them.
- 153.** She welcomed the progress made by the Tripartite Technical Working Group on Labour Law Reform and urged the Government to align its labour law with international labour standards. It was a matter of concern that the amended Settlement of Labour Disputes Law had not fully taken into account the recommendation of the Direct Contacts Mission concerning non-union collective bargaining in workplaces with existing trade unions. The Peaceful Assembly and Peaceful Procession Law should be revised to safeguard the rights of trade unions to peacefully exercise freedom of association, and the Labour and Employer Organization Law should be revised to incorporate the principles of freedom of association and freedom of assembly.
- 154.** She commended the adoption of the first five-year National Action Plan on the Elimination of Child Labour, but expressed regret that the Government had not fulfilled its commitment to create a plan to eliminate child labour by 2025 in line with SDG target 8.7. The Government should adopt the list of hazardous work prohibited for persons under 18 years of age; strengthen the capacity of labour inspectors to detect hazardous child labour, especially in the informal economy; provide a timeline for the amendment of section 359 of its constitution; immediately grant full, unhindered and safe humanitarian access to all conflict-affected areas; and lift any internet and media restrictions to permit access to critical information on the COVID-19 pandemic. She called on all Member States and entities including private corporations to cooperate with the Independent Investigative Mechanism for Myanmar.
- 155.** Referring to the draft decision, she proposed that the phrase "speed up" in the amendment to subparagraph (a) as proposed by the Workers' group could be changed to "step up" and expressed her group's support for the amendment to subparagraph (e) proposed by the Employers' group.
- 156. Speaking on behalf of Association of Southeast Asian Nations (ASEAN), Australia and Japan**, a Government representative of Thailand acknowledged the recent progress made by the Government of Myanmar on the promotion and protection of labour rights and recognized its ratification of Convention No. 138. It was encouraging that the Tatmadaw had been removed from the list of parties recruiting children into the armed

forces. She commended the Government for working closely with the ILO to address key concerns raised at the 338th Session of the Governing Body, especially regarding the elimination of forced labour, and to establish an effective national complaints mechanism. She noted the progress made by the National Forced Labour Complaints Mechanism Committee despite the COVID-19 crisis and welcomed the progress made by tripartite partners since the signing of Myanmar's DWCP in 2018. She requested the ILO and the international community to support resource mobilization efforts towards the effective implementation of the DWCP and called on the Government of Myanmar to continue to cooperate with the Office and social partners to that end. If the Government continued to make progress with the support of the ILO and the international community, the Governing Body would soon no longer need to request regular progress reports on the matter.

- 157. A Government representative of China** noted the progress made to implement the DWCP, eliminate forced labour, promote social dialogue, improve labour management and advance labour law reform, as well as steps taken to address the COVID-19 pandemic. He expressed the hope that the Office would continue to work with the Government of Myanmar, including by providing technical assistance, and said that the international community had to step up its cooperation to advance decent work and achieve sustainable economic and social development. He supported the Government's proposal to upgrade the ILO Liaison Office to a country office, which would facilitate wider cooperation. Furthermore, he said that, in light of the efforts made by the Government, the Governing Body should close the case. He supported the draft decision, as amended by the Employer spokesperson.
- 158. A Government representative of the Russian Federation** noted the progress made by the Government of Myanmar towards eliminating forced labour, implementing the DWCP, achieving legislative reform and establishing a national complaints mechanism, and noted the ratification of Convention No. 138, despite the challenges associated with COVID-19. The ILO should continue its close cooperation with the Government in order to overcome the remaining challenges, with the support of the international community. The Government should also reaffirm its long-term commitment to cooperation and progress. He agreed with the Government representative of Myanmar that consideration of the situation in that country no longer needed to be included on the Governing Body agenda.
- 159. A Government representative of the United States** noted that the Government of Myanmar had taken steps to establish a national complaints mechanism to receive forced labour complaints, including child soldier recruitment and the use of children by the military, and urged the Government, in consultation with social and international partners, to ensure access and protection for all victims of forced labour. The Government must hold accountable any military units and ethnic armed groups that continued to compel the forced labour of civilians, including children, for non-combat roles in conflict areas. The Labour and Employer Organization Law needed further reform to protect workers seeking to form a union, and he noted that some workers had allegedly been dismissed for forming or joining unions. The Settlement of Labour Disputes Law still did not include a collective bargaining framework or a functional labour dispute settlement process. Those reforms should be made as soon as possible.
- 160.** He supported the amendments to the draft decision proposed by the Worker spokesperson. Concerning the proposals by the Employer spokesperson, he suggested using the phrase "progress to date" instead of the word "progress" in subparagraph (a) of the draft decision. While he was sympathetic to the Employer spokesperson's

proposed amendment to subparagraph (e) he recalled that the relevant passage said: “the implementation of the Better Work programme should it be decided to introduce this initiative in Myanmar”. He therefore understood that it was for the authorities to decide whether the initiative would be introduced. However, he would welcome further explanation of whether the draft decision required additional amendment.

- 161. A Government representative of India** noted the commitment of the Government of Myanmar to eliminating forced labour and promoting and protecting labour rights and encouraged the ILO to continue providing technical assistance in that regard. He welcomed the fact that the Government had ratified Convention No. 138. The ILO and the international community should continue to support the Government in its efforts, especially in addressing the challenges of COVID-19 being faced by workers.
- 162. A Government representative of Canada** welcomed the ratification of Convention No. 138 and looked forward to its full implementation without delay. She appreciated the Government of Myanmar’s efforts to respond to the socio-economic impacts of the COVID-19 pandemic. She called on the Government to establish and implement, in consultation with social partners and in cooperation with the ILO, a national complaints mechanism with guaranteed protections and remedies for victims of forced labour, and to redouble its efforts to eliminate forced labour in all its forms, in law and in practice. The travel restrictions faced by ILO staff were a concern; ILO and UN representatives must be able to travel to assess and verify information relating to forced labour complaints. She called on the Government to uphold the rights to freedom of association and freedom of assembly, through the reform of legislation. The work of the Liaison Office in Myanmar was commendable in providing support to the Government and social partners. She supported the draft decision as amended by the Worker spokesperson and said that any amendment to subparagraph (e) should leave open the possibility of a Better Work programme in Myanmar.
- 163. A Government representative of Cuba** reiterated that any instance of forced labour was unacceptable, and welcomed the steps taken by the Government of Myanmar towards its elimination. The Government should continue to strengthen tripartite social dialogue and collective bargaining, as well as cooperation with the ILO. He supported measures and programmes that encouraged technical assistance and enabled Governments to work to implement recommendations and measures in an environment of cooperation and dialogue.
- 164. A Government representative of Switzerland** welcomed the ratification of Convention No. 138 and the notable reduction in child labour in targeted communities. Noting the establishment of the national complaints mechanism and the reduction in the number of complaints of forced labour, she encouraged the Government of Myanmar to implement all the recommendations issued by the ILO’s supervisory bodies to eliminate forced labour. The social partners should be involved in the process of labour law reform, in accordance with Conventions Nos 87 and 98. She expressed concern regarding the conviction of seven trade union leaders under the Peaceful Assembly and Peaceful Procession Law. She encouraged the Government to respect the principles of freedom of association and eliminate the legislative provisions that had resulted in that verdict. As a donor to the Better Work programme, her Government would welcome the inclusion of Myanmar in the programme in order to improve working conditions and the application of labour law in the textile sector. The programme had proven its effectiveness, particularly in the context of the COVID-19 pandemic. She supported the draft decision in its original form.

- 165. A Government representative of the United Kingdom** noted the progress made to implement the DWCP, ratify Convention No. 138 and pass the Occupational Safety and Health Law. However, she expressed concern regarding continuing reports of forced labour by the Tatmadaw. The Government must establish a credible and effective national complaints mechanism that must be inclusive and provide protection for victims. Representatives of the ILO and other UN organizations must be granted access to all areas of the country in order to independently assess events relating to complaints. She encouraged the Government to review its use of the Peaceful Assembly and Peaceful Procession Law, noting the ongoing restrictions on freedom of association. Progress on eliminating forced labour and the worst forms of child labour risked being reversed as a result of COVID-19. The pandemic had highlighted the essential need for social protection coverage for all. She urged the Government to adopt the Hazardous Child Labour List. She supported the draft decision, as amended by the Worker spokesperson and the representative of the European Union.
- 166. The representative of the Director-General** (Deputy Director-General, Management and Reform) said that the Office would provide, in its next report to the Governing Body, responses to the Workers' group's questions on the effectiveness of the self-assessment checklist in the garment industry and how much of the Myanmar Government's COVID-19-related funding had been provided as assistance to workers and loans to employers. In response to the comment made on behalf of the European Union, he confirmed that the ILO was still able to receive complaints. As set out in the complaints mechanism procedures, complaints could be submitted through the national complaints mechanism or through the social partners. The ILO's task was to provide technical support to the national complaints mechanism. However, he re-emphasized the Office's reservations about the standard operating procedures and the need for those to be further developed. The Office was continuing to pursue that development with the strong support of the social partners through the NTDF and other avenues.
- 167.** In response to comments regarding regular reporting, he said that the General Conference at its 102nd Session had requested the Director-General to submit a report at the March Governing Body sessions until the elimination of forced labour. For reporting patterns to be changed, either the Governing Body must be satisfied that forced labour had been eliminated or the Conference must reconsider the reporting requirements. As the status of the Office as a Liaison Office in Myanmar and the issue of continued reporting both arise from Conference decisions, the Office would provide more detail in its next report.
- 168.** Regarding the Office's proposed wording in the decision point of "progress made", he clarified that the progress referred specifically to that made in the implementation of the DWCP and that the wording was identical to that accepted by the Governing Body at its 337th Session in October–November 2019 when it last considered the subject of Myanmar.
- 169. A Government representative of Myanmar** took note of the concerns expressed by the Worker and Employer spokespersons and thanked them for recognizing the challenges his Government was facing in connection with the COVID-19 pandemic. He said that his Government's efforts to implement the decisions of the Governing Body from previous sessions had yielded tangible results, including the national complaints mechanism and its committee, which had been deliberating in a more inclusive manner with the social partners. He expressed confidence that, with the Office's support, the mechanism would soon be more effective and credible. He stressed that the Office's

support would also be needed to address the challenges facing migrant workers and seafarers during the COVID-19 pandemic.

- 170. The Worker spokesperson** expressed deep concern about the slow rate of progress made. While acknowledgement of some progress made could be included in the draft decision, the wording “strongly urged” should be used in subparagraph (a). “Encouraged” was not sufficiently emphatic. The wording suggested by the European Union for the Government of Myanmar to “step up” its efforts was acceptable in subparagraphs (a) and (c). In relation to the Employers’ group’s amendment to subparagraph (e), she clarified that the Workers’ group strongly supported Better Work programmes. It could, however, accept the deletion based on the understanding that it was owing to the fact that the Governing Body was not the governance structure for those programmes. She joined the Government of Myanmar in drawing attention to the challenges facing migrant workers and seafarers, and expressed the hope that the issue would be addressed later in the current session.
- 171. The Employer spokesperson** echoed the Workers’ concern regarding seafarers. He reiterated the need to use language in subparagraph (a) that communicated a balance between acknowledging the efforts made by the Government of Myanmar and encouraging further progress at a swifter pace. He suggested the use of “progress to date”, as proposed by the United States, but noted that translation of that phrase into other languages may be difficult. On subparagraph (e), he clarified that any decision taken by the Governing Body on the Better Work programme would be premature, as there had as yet been insufficient opportunity to hear the views of constituents in Myanmar. Furthermore, Governing Body decisions should not be contingent on the decision-making of other bodies, which would be the case if the original wording of subparagraph (e) of the draft decision were retained.
- 172. The representative of the Director-General** (Deputy Director-General, Management and Reform) suggested deferring the finalization of the draft decision to later in the session. In the meantime, the Office would prepare texts for consultation and presentation to the Governing Body.
- (The Governing Body resumed consideration of the item after the Office circulated a revised draft decision following consultations).*
- 173. The Employer spokesperson** thanked the Office for having prepared the revised draft decision, which accurately reflected the pragmatic and fruitful discussions that had been held between the Workers and Employers. He expressed the hope that the Government of Myanmar would continue its efforts to implement the Governing Body’s decisions with the help of the Office and the social partners. The quality and strength of relationships in Myanmar and the commitment of the Government and the social partners to change had been severely put to the test during the COVID-19 pandemic. However, they had proven robust and resilient, which boded very well for the future.
- 174. The Worker spokesperson** thanked the Employers for their cooperation in reaching agreement on the revised draft decision and wished the Government of Myanmar and the social partners well in dealing with their outstanding challenges.
- 175. Speaking on behalf of the European Union and its Member States**, a Government representative of Germany said that North Macedonia, Montenegro, Albania and Norway aligned themselves with her statement. She thanked the ILO once again for its commitment to promoting labour rights in Myanmar and welcomed the continued dialogue with the Government of Myanmar in that regard, especially in the light of the COVID-19 pandemic. She also welcomed the language of the revised draft decision,

which reflected a compromise and underscored the need to step up efforts in a number of important fields. She supported the revised draft decision.

- 176. A Government representative of Myanmar** said that, as requested by the Workers' group earlier in the discussion, he had sent additional information to the Workers' group, Employers' group and the Office regarding Myanmar's response to the COVID-19 crisis. He explained that a general election had been held in Myanmar on 8 November 2020 and that the newly elected government was committed to democratic transition and reform, and would continue the work already under way, including in the area of constitutional, legal and labour law reforms.

Decision

177. The Governing Body:

- (a) **acknowledged that some progress had been made by the Government, and through the efforts of the social partners, since March 2019 in implementing the Decent Work Country Programme (DWCP) and strongly urged the Government to continue to cooperate with the ILO and social partners to step up its efforts to establish a credible and effective national complaints mechanism;**
- (b) **called for further efforts to ensure that the views of social partners are fully taken into account in the process of labour law reform and that any amendments to laws are consistent with the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), with special attention given to the protection of labour rights during the COVID-19 pandemic;**
- (c) **urged the Government to step up its efforts with Parliament to amend article 359 of its Constitution in order to bring it into conformity with the Forced Labour Convention, 1930 (No. 29), and to strengthen parliamentary oversight functions relating to forced labour;**
- (d) **expressed concern at the charges made against eight trade unionists under the Peaceful Assembly and Peaceful Procession Law and the use of the Law by the authorities as a means of denying trade unions the right to peacefully exercise their right to freedom of association; and requested the Government to repeal the Disciplines set by the Pyigyitagon Township in Mandalay and those disciplines set by other townships in Mandalay Region which prevent persons living outside the region from staging a peaceful assembly or procession in Mandalay, and to specify the principles of freedom of association and freedom of assembly in the new draft Labour and Employer Organization Law;**
- (e) **called on Member States to support resource mobilization efforts to enable the effective implementation of the DWCP in Myanmar, in particular taking into account the COVID-19 situation and its implications on the elimination of forced labour and the worst forms of child labour, the establishment of a credible national complaints mechanism and the strengthening of the labour inspection system to ensure the effective enforcement of labour laws.**

(GB.340/INS/12, paragraph 42, as amended by the Governing Body)

- 13. Reply of the Government of the Bolivarian Republic of Venezuela to the report of the Commission of Inquiry appointed to consider the complaint alleging the non-observance of the Minimum Wage-Fixing Machinery Convention, 1928 (No. 26), the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (GB.340/INS/13)**
- 178. A Government representative of the Bolivarian Republic of Venezuela** (Minister of Popular Power for the Social Process of Labour) was authorized to speak in accordance with paragraph 1.8.3 of the Standing Orders on a matter concerning his Government. He said that his Government's response to the COVID-19 pandemic had prioritized health and life over private economic interests, despite being hampered by the unlawful, coercive, unilateral measures imposed upon it. His Government's rejection of the Commission of Inquiry's recommendations, whose application would have been unconstitutional, should come as no surprise. It had maintained throughout that the process was politicized and biased against the country from the outset. The Government had too much integrity to simply accept the recommendations and then refuse to comply with them.
- 179.** Nevertheless, his Government had reiterated its respect for broad and inclusive social dialogue and its willingness to improve its compliance with the ILO Conventions that it had ratified, based on constructive suggestions from the ILO supervisory bodies. Indeed, the Government had already adopted a range of measures in the light of the recommendations, including the registration of the Independent Trade Union Alliance (ASI), the request for ILO technical assistance, the pardoning of Rubén González, the submission of reports to the Committee of Experts on the Application of Conventions and Recommendations (CEACR), and the holding of meetings with employers' organizations to develop measures to enhance production.
- 180.** The Venezuelan Government had decided to respect the ILO's specialized competence in the supervisory procedure at hand and trusting that it would, one day, carry out its work with the necessary objectivity. The Government was willing to continue cooperating with the ILO supervisory machinery, particularly in relation to the Commission of Inquiry's recommendations, provided that the ILO acted impartially, transparently, lawfully and without political influence.
- 181.** His Government wholly rejected the politically motivated, aggressive and intimidatory amendment proposed by a group of countries³ – which he declined to name out of respect for their populations – seeking to have the International Labour Conference approve measures under article 33 of the ILO Constitution to secure compliance with the recommendations. It likewise rejected the subamendments proposed by the Employers' group and the Government of the United States. The amendments were merely a poor imitation of a past decision taken by the Organization against a sovereign State. Rather than submitting amendments that would achieve nothing positive, those governments should heed their own populations' demands for change to their dishonest capitalist policies that were dictated by another government. Furthermore, they, along with the Employers, should instead support his Government's request for technical assistance

³ See [Appendix I](#), section 1.

from the ILO, which was of vital importance in improving compliance with the relevant Conventions and which had yet to receive a response. He urged the Governing Body to adopt the amendment proposed by the Workers, which included a discussion on the establishment of a Special Representative of the Director-General in the country and the submission of a report to the following session of the Governing Body. Such a constructive approach would pave the way for inclusive and broad dialogue and contribute to enhanced compliance with ILO Conventions.

- 182. The Employer spokesperson** said that the Venezuelan Government's reply to the report of the Commission of Inquiry had been disrespectful. That was in line with the Government's contemptuous responses to the reports of the Office of the United Nations High Commissioner for Human Rights and of the Human Rights Council's Independent International Fact-Finding Mission. The Government's rejection of the recommendations of the Commission of Inquiry was therefore unsurprising. The fact that the Director-General had had to press the Venezuelan Government as to whether it accepted the recommendations and, if not, whether it proposed to refer the matter to the International Court of Justice, the Government's lengthy delay in responding and its ultimate rejection of the recommendations all set extremely unhealthy precedents for the Organization.
- 183.** The Commission of Inquiry's report highlighted the existence of a set of institutions and practices which were in violation of the guarantees and rights set out in the Conventions covered by the complaint and which undermined not only employers' organizations, but also workers' organizations that were not close to the Government. That there was a serious human rights crisis in the country was beyond doubt. The Government's refusal to engage with international institutions did not help to protect Venezuelans' fundamental rights, and its rejection of the recommendations demonstrated contempt, disdain and arrogance, as well as posing a risk to the Organization and its relevance. Urgent concerted efforts were required to encourage the Venezuelan Government to take the correct decisions; history had shown that Governments that embraced the recommendations of Commissions of Inquiry achieved successful and lasting outcomes.
- 184.** Noting that article 33 of the ILO Constitution empowered the Governing Body to recommend to the Conference such action as it may deem wise and expedient to secure compliance with the recommendations of a Commission of Inquiry or the International Court of Justice, he expressed his group's surprise that the draft decision did not include, at a minimum, wording similar to the measures recommended by the Governing Body at its 277th Session (March 2000) in relation to Myanmar's obligations in respect of the Forced Labour Convention, 1930 (No. 29). A reference in the decision to article 33 was absolutely necessary.
- 185.** The Employers' group supported the amendments to the draft decision proposed by the group of countries, but proposed subamendments to reflect the urgency required and to add a subparagraph: "(h) to request the Director-General to give without delay wide visibility to the report of the Commission of Inquiry through a communication campaign including in the ILO web page". The group also supported the proposed amendment of the United States to include a relevant agenda item at the following Governing Body session. The decision must persuade the Venezuelan Government of the benefits of working with the ILO to address all of the recommendations of the Commission of Inquiry. The Government could not cherry-pick the recommendations with which it agreed, and it was not entitled to endorse the Workers' group's proposed amendment.
- 186.** The case had begun as an Employers' group case but had become an institutional and organizational matter. The Governing Body could not afford to remain silent; members

must speak out despite the lobbying by the Venezuelan Government. Most of them understood the gravity of the issues at hand and their institutional implications. It was the responsibility of the Governing Body to protect the Organization and its unique features of tripartism and social dialogue and to defend the supervisory mechanism. He urged the Workers' group and Government members to support the comprehensive proposed amendment. Lastly, he called on the Director-General to demonstrate leadership and determination in order to defend the foundation of the Organization.

- 187. The Worker spokesperson** noted with appreciation the fact that the Commission of Inquiry had examined the issues raised in the complaint from the perspective of both employers' and workers' organizations, and that the Venezuelan Government had taken positive steps in three areas: the registration of the ASI – a long-standing demand from the Workers' group – as well as the presidential pardon of the General Secretary of Sintraferrominera and the request for ILO assistance to determine the representativeness of employers' and workers organizations.
- 188.** However, it was deeply regrettable that the Venezuelan Government had not accepted the Commission's recommendations. While the Government had reiterated its commitment to broad and inclusive social dialogue and its willingness to improve compliance with the relevant ILO Conventions, workers' organizations in the country had reported that there had been no improvements to date, and that the situation of workers and their families was desperate, with alarming rates of poverty and unemployment. Real progress in the area of social dialogue and an enabling environment based on the genuine respect of and commitment to Conventions Nos 87 and 98 were urgently needed. The Venezuelan Government was expected to comply as soon as possible with the remainder of the Commission's recommendations.
- 189.** The Workers' group had proposed an amendment ⁴ to the draft decision whereby the Governing Body requested the Director-General to discuss with the Venezuelan Government an agreement on establishing a Special Representative of the Director-General in the country by March 2021 to ensure effective application of Conventions Nos 26, 87 and 144 in law and in practice. She urged the Government to conclude such an agreement to ensure the effective implementation of *all* of the Commission's recommendations, and to cooperate fully. The amendment also requested the Director-General to report to the 341st Session of the Governing Body on the steps taken in that regard, and to include an item on the agenda of that session on the consideration of all possible measures to secure the Government's compliance with the recommendations.
- 190.** The Workers' group did not see the benefit of accepting the other proposed amendments and subamendments. Regarding the first subparagraph of the amendment proposed by the group of countries, it was not within the competence of the Governing Body to endorse or not endorse reports and recommendations of independent Commissions of Inquiry, and it had already noted the report one year previously. The second and third points of the amendment proposed by the group of countries were similar in substance to subparagraph (b) of the Workers' proposed amendment; the Workers' group recommended its own version. Concerning the fourth subparagraph of the proposed amendment, it was completely premature to ask for measures under article 33 to be taken. A full discussion of all possible measures at the next Governing Body session was the most effective way forward. The proposal to discuss establishing a special representative was aimed at ascertaining whether the

⁴ See [Appendix I](#), section 2.

Government was indeed ready to work with the ILO; the Workers' group expected full cooperation, not just some form of technical cooperation.

- 191. Speaking on behalf of the European Union and its Member States**, a Government representative of Germany said that North Macedonia, Montenegro and Albania aligned themselves with his statement. He noted with immense disappointment the Venezuelan Government's replies of December 2019 and August 2020, which signalled an unwillingness to accept the Commission's conclusions and recommendations, and its failure to implement them by 1 September 2020. It was concerning that, despite the Governing Body's repeated calls for social dialogue, employers continued to face acts of intimidation and retaliation. He strongly urged the Venezuelan Government to work with the Office to implement the recommendations, take concrete action, and engage in more robust efforts to encourage and sustain inclusive tripartite social dialogue. He supported the inclusion of the item on the agenda of the 341st Session of the Governing Body, which would consider all possible measures required.
- 192. Speaking on behalf of a group of countries, consisting of Australia, Brazil, Canada, Chile, Colombia, Guatemala, Honduras, Paraguay, Peru and Uruguay**, a Government representative of Peru said that it was deeply regrettable that, more than a year after the issuance of the Commission's report, the illegitimate Maduro regime was allowing the proven labour rights violations in the country to persist. The lack of progress in the implementation of the recommendations showed, once again, that the Maduro regime did not accept the legitimacy of the Commission and assigned little importance to violations of labour rights. It was unacceptable for an ILO Member State to explicitly refuse to comply with article 29 by rejecting the recommendations and not stating whether it wished to refer the complaint to the International Court of Justice. That constituted a dangerous threat to the legitimacy of the ILO's supervisory system and presented a direct challenge to the entire Organization. The ILO as a whole must show its unity in the face of a Government that refused to comply with the ILO Constitution.
- 193.** The group of countries had proposed an amendment ⁵ to the draft decision, in which it requested the application of article 33 of the ILO Constitution to refer the matter to the 109th Session of the International Labour Conference, and proposed a series of measures to ensure compliance with the recommendations. In order for the Governing Body to adopt a consensus-based decision on the matter, the group suggested that informal consultations could be convened and that the discussion could be deferred until later in the session to facilitate constructive dialogue.
- 194. A Government representative of the United States** deplored the Venezuelan Government's rejection of the recommendations of the Commission of Inquiry and the efforts to discredit its work. Rather than working to improve the situation of employers and workers, the Government was fixated on disrupting the Commission's mandate and the report's content. Its statement that it would only implement the recommendations that it considered relevant was unacceptable.
- 195.** While the release of Rubén González and the registration of two trade union confederations were welcome, much more needed to be done to ensure that all workers and employers could freely exercise their rights. It was essential for the regime to immediately: cease all acts of violence, threats, persecution, intimidation or any other form of aggression against employers' and workers' organizations; release all workers and employers imprisoned for exercising their fundamental rights to freedom of

⁵ See [Appendix I](#), section 1.

association; provide full respect for the independence of employers' and workers' organizations, and prevent any interference or favouritism by State authorities; and initiate genuine and inclusive social dialogue for the effective implementation of Conventions Nos 26 and 144. His Government proposed a subamendment to the amendment put forward by the group of countries, which added a new subparagraph after the third subparagraph that would read:

decided to include on the agenda of 341st Session (March 2021) an item entitled "Measures including recommendations under article 33 of the ILO Constitution to secure Venezuelan compliance with the recommendations of the Commission of Inquiry".

- 196. A Government representative of the Russian Federation** disagreed that there had been a lack of progress in the Venezuelan Government's implementation of the Commission's recommendations. He recalled that the Venezuelan Government had opposed the establishment of the Commission of Inquiry, and that other Governing Body members had expressed doubt about the appropriateness of such a measure. Yet, the Venezuelan Government had respected the Governing Body's decision and had shown goodwill in assisting the Commission with its work. It had noted that a number of the recommendations contravened its constitutional principles of equality and separation of powers. The Governing Body should support the Venezuelan Government, given the difficult current circumstances, and give it more time to work with all stakeholders to facilitate social dialogue, with active technical support from the ILO.
- 197.** His Government preferred the original draft decision but would be prepared to consider the amendments proposed by the Workers' group, particularly regarding the next steps to be taken. There was no justification for an application of article 33, which was an exceptional and extreme measure rarely taken in the history of the ILO. The matter of progress made in complying with the recommendations could be discussed at the next session of the Governing Body, as the format of the present session did not allow for a full exchange of opinions and consultations where there were serious disagreements. He stressed the need to take a measured and judicious approach to the issue, and to avoid politicization.
- 198. A Government representative of Brazil** said that she deplored the explicit rejection by the Maduro regime of the idea of accepting and complying with the recommendations of the Commission of Inquiry. That rejection was in itself a very serious matter and showed an attitude that was incompatible with the basic obligations of ILO Member States. The Government had also stated that the Commission's recommendations were an interference in its sovereignty. The situation facing the Governing Body required a firm, clear and urgent response. Failure to act would be tantamount to an admission that the standards supervisory system of the ILO was both ineffective and obsolete, and would threaten the credibility and legitimacy of the ILO. She believed that the conditions existed for full and immediate implementation of article 33 of the ILO Constitution, which was the only way forward. She accordingly urged the Governing Body to adopt the draft decision with the amendments that her country had submitted, together with Canada, Chile, Guatemala, Paraguay and Peru.
- 199. A Government representative of China** said that the Government of the Bolivarian Republic of Venezuela had implemented many of the recommendations of the Commission of Inquiry. The Government had also shown positive will to move forward with legislative reform. The standards supervisory system of the ILO should actively encourage Member Governments to address the problems encountered in the implementation of international labour standards through constructive dialogue with their social partners and relevant stakeholders. It was to be hoped that the ILO would

continue to provide the Government of the Bolivarian Republic of Venezuela with appropriate technical assistance to better implement the Commission's recommendations. He supported the amendment to the draft decision proposed by the Workers' group.

- 200. A Government representative of Cuba** said that the Government of the Bolivarian Republic of Venezuela had provided sufficient information on the case under consideration, and its official position on the recommendations of the Commission of Inquiry was not incompatible with the development of technical cooperation with the ILO or with its political will to continue to comply with its obligations and commitments towards the Organization. He reiterated Cuba's rejection of the manipulation of multilateral organizations for political purposes. He did not support the amendments or subamendments to the draft decision proposed by a number of countries. However, a consensus of opinion seemed to be forming around the amendment proposed by the Workers' group, and he could support that solution.
- 201. A Government representative of the Islamic Republic of Iran** believed that the important measures adopted by the Government in implementing the recommendations of the Commission of Inquiry needed to be duly recognized. They included registering the Venezuelan Workers' Confederation; expressing requests for and receiving technical assistance from the ILO; granting a pardon to Mr Rubén González; and submitting reports on the application of Conventions Nos 26, 87 and 144 to the CEACR. The country was encouraged to work closely with the ILO and the Commission of Inquiry, as well as social partners, to solve the remaining issues. The Islamic Republic of Iran supported the amendments to the draft decision proposed by the Workers' group.
- 202. A Government representative of Myanmar** also welcomed the registration of the Venezuelan Workers' Confederation and the ASI and requested the ILO to provide the necessary technical assistance to enable the country to advance social dialogue, improve consultations and trade union representation, and comply fully with Conventions Nos 26, 87 and 144. Discussions at the Governing Body must address the interests of workers and employers without any politicization.
- 203. A Government representative of Namibia** said that he was cognizant of the fact that a country's compliance with the international labour standards of the ILO was only possible under the constitutional order and without outside political interference. Since the Government was already implementing some of the Commission of Inquiry's recommendations and was also seeking technical assistance from the ILO, it should be offered that opportunity and encouraged to continue implementation of the remaining recommendations. Namibia did not subscribe to invocation of article 33 of the ILO Constitution at that early stage and did not support the proposed amendment to the draft decision as submitted by several Member States. However, Namibia was amenable to going along with the amendments proposed by the Workers' group.
- 204. A Government representative of Turkey** welcomed the fact that the Government of the Bolivarian Republic of Venezuela had repeatedly expressed its willingness to continue engaging in social dialogue with the social partners. The Government had left open the possibility of making further progress based on the recommendations of the Commission of Inquiry. He believed that with the technical assistance of the ILO it would be able to improve its practices and make advances in social dialogue and consultations, and in trade union representation.

- 205. A Government representative of Iraq** called on the ILO to continue providing support to all countries, at their request or according to the Organization's vision, and to avoid any politicization of technical issues that fell within its powers.
- 206. A Government representative of Barbados** said that historically the ILO was a solution-seeking organization. Barbados accordingly called for continued dialogue between the Bolivarian Republic of Venezuela and the ILO; broad and inclusive social dialogue; a willingness to improve compliance with ILO Conventions, based on constructive suggestions from the ILO supervisory bodies; and technical assistance to be given in matters of social dialogue, consultations, union representation and improvements in practice in every area related to Conventions Nos 26, 87 and 144.
- 207. The Employer spokesperson** condemned the refusal of the Venezuelan Government to accept the recommendations of the Commission of Inquiry and expressed his group's vehement discontent with the interventions made by a number of Governments. It was incomprehensible that constituents could claim that they supported the ILO's supervisory system, including the article 26 procedure, and defended human rights, but were ready to allow a Government member of the ILO to flout its commitments to its citizens. The Workers' group appeared to have been placated by the Government's agreement to approve the registration of the ASI. Furthermore, it was completely contradictory that the Governments of the EU and its Member States had acknowledged the failings of the Venezuelan Government and expressed emphatic support for the outcomes of the Office's work but supported an amendment calling for timid measures rather than the concrete action needed to address human rights violations in the country, namely the opening of an article 33 procedure. The Governing Body would effectively be destroying the article 26 procedure by allowing a Government that had demonstrated its disdain for the ILO's procedures to continue to disrespect decisions adopted by the Organization; failure to take a stand against such flagrant defiance would betray the ILO's role as a defender of human rights.
- 208.** He strongly urged Governments that had called for leniency towards the Venezuelan Government to reconsider their standpoints since human rights should not be cast aside for reasons of political expediency or alliances. Constituents should hold further informal consultations to discuss the desired outcomes of the present discussion; however, history would not look favourably on the Governing Body if it made a decision that would undermine the article 26 procedure. The draft decision must include references to the article 33 procedure to make it clear that the Venezuelan Government had violated human rights and ensure that specific measures would be adopted to remedy those contraventions.
- 209. The Worker spokesperson** stressed that her group would always respect the outcomes of the ILO's supervisory system. Although the logical consequence of an article 26 complaint should normally be a Commission of Inquiry, it was up to the Governing Body to decide whether to take that route or whether another option was more likely to encourage compliance. In fact, only one article 26 complaint that had resulted in the establishment of a Commission of Inquiry had led to an article 33 procedure, and that case had related to a Government failing to implement the recommendations of the Commission rather than refusing to accept them. In previous cases in which Governments had refused to accept the recommendations of a Commission of Inquiry, the Governing Body had decided to put pressure on those Governments using tools other than the article 33 procedure, which had led to eventual compliance with the standards in question.

- 210.** The report of the Commission of Inquiry must be taken seriously and respected. The ILO was a solution-seeking organization and should keep all options open to ensure that its final decision would take into account the very difficult circumstances and make a difference to Venezuelan employers and workers. The Governing Body should bear that responsibility in mind during the discussion to take place in March 2021 on the measures to be adopted. In drafting its amendment, her group had sought to encourage the ILO to take the outcomes of the Commission of Inquiry seriously without accepting the Venezuelan Government's disregard of its recommendations and call on the Office to work with the Government to translate its commitment into action. The Governing Body should decide on a way forward after discussing a report on the matter to be submitted to the 341st Session of the Governing Body and taking into account any progress made by the Venezuelan Government in its compliance with the Commission's recommendations.
- 211. A Government representative of the Bolivarian Republic of Venezuela** was authorized to speak in accordance with paragraph 1.8.3 of the Standing Orders in response to comments directed at his Government. He accepted the amendment to the draft decision proposed by the Workers' group, thanked the Governments that had supported it and said that his Government would undertake to comply with its provisions.
- 212.** It was shameful that political and individual interests had once again been brought to the discussion since they added nothing positive to the debate. He questioned the morality of those Governments that had submitted an amendment to the draft decision attacking the Venezuelan Government instead of fulfilling their responsibilities with integrity and resolving the problems of their own despondent citizens. His Government could hold its head high, unlike those Governments that had rebuked it despite their inability to solve their problems before or after the emergence of the COVID-19 pandemic. He was therefore unable to accept the proposals submitted by those Governments.
- 213.** The Government of a northern country that had recently suffered an electoral defeat owing to its mismanagement and had unilaterally imposed coercive measures that infringed the Charter of the United Nations with serious consequences for the Bolivarian Republic of Venezuela and its people did not have the right to distort the technical nature of the discussion. Moreover, that Government had not ratified all eight fundamental Conventions of the ILO and had adopted supremacist and discriminatory policies against migrants. The Government of an Andean subregion mired in an ongoing political crisis and whose president had recently been ousted for engaging in corruption could not take the moral high ground when the ILO had highlighted labour rights violations in that country's fishing sector and had called upon that Government to address child labour, trafficking and sexual exploitation. A Government that the ILO had reprimanded for anti-trade union discrimination and requested to reform its legislation to ensure collective bargaining for independent workers and recognize freedom of association for rural workers could not claim moral authority, especially in the light of its misjudgement and mishandling of the COVID-19 pandemic and its subsequent diversion of public funds earmarked for the pandemic response. The Government of a northern country in which freedom of association for agricultural, domestic or independent workers was non-existent had similarly questionable morals given that it had not granted sufficient protection to migrant workers during the COVID-19 crisis, as did the Government in the Southern Cone that had ordered the repression of peaceful demonstrations and the violation of its citizens' human rights, actions that had echoed the dictatorships of the late twentieth century, and had been requested to amend its legislation to prevent

anti-trade union discrimination and permit collective bargaining among public sector workers.

- 214.** The Government whose country was named the largest cocaine producer and exporter in the world under the auspices of its corrupt authorities warranted special mention given the deep concerns raised by trade unions in that country regarding the high number of homicides and anti-trade union violence. He also questioned the morality of the Central American Government with alarming unemployment rates that had been requested by the ILO to reform its legislation to prevent the violation of freedom of association and collective bargaining among public sector workers and to ensure that domestic workers were assured of social security and a minimum wage. Equally dubious were the morals of the Government of another Central American country that had witnessed unpunished acts of anti-trade union violence and murder that had recently been the subject of discussion by the Governing Body and whose trade unionists and workers had been demoralized by the lack of progress concerning the article 26 complaint filed against it. The Government that had not dealt with its own social crisis and whose trade unions had predicted a wave of complaints relating to unfair dismissals and contract suspensions approved by the authorities following the pandemic had no right to criticize the Venezuelan Government in the light of the corruption, impunity, poverty and inequality in its own country, not to mention violations of rights among indigenous peoples and labour discrimination. The ILO had also needed to continuously remind a blundering Government of a second Southern Cone country in an economic crisis, whose administration had received widespread popular disapproval over the previous two years, to prevent the worst forms of child labour, in particular modern slavery.
- 215.** All Governments should look carefully at themselves before criticizing the actions of others and should preserve the dignity of their citizens by refusing to support attempted coups, economic blockades and other measures that harmed good people. He would have preferred to receive constructive criticism or suggestions from the Employers' group, but had been prepared to face the attacks mounted on the basis of that group's interests. He called on constituents to engage in dialogue and work together with the same conciliatory approach that his Government had taken in consultations with the Venezuelan employers' organization affiliated with the IOE. His Government would strengthen that conciliatory mechanism and, with technical support from the Office, would continue to make progress and fully comply with the Conventions indicated in the complaint. The Venezuelan Government would continue to report to the Governing Body.
- 216. The Chairperson** urged constituents to formulate a decision on the merit of the case rather than the political context. As the Governing Body had been unable to reach a consensus on the matter, the discussion would be postponed until later in the week to allow time for informal consultations.
- 217.** Following consultations, the Chairperson reported that despite tremendous efforts to reach consensus, additional time would be required to agree on a draft decision. Pending further discussion on the substance the following day, he invited members involved in the consultations to provide the Governing Body with a status update.
- 218. The Worker spokesperson** objected to the proposal to postpone further discussion on the case, and asked to put questions to the Legal Adviser so as to incorporate his response in the further deliberations. Moreover, there appeared to have been a link established between the case and that of Guatemala, which were in no way linked.

219. She informed the Governing Body that in addition to the social partners, the informal consultations had involved the group of Governments that had submitted the original amendment and the Government of the United States, which had proposed a subamendment; the EU had also made constructive suggestions. The discussions had not been easy, but had recently started to move forward. However, confusion had arisen regarding the legal implications of using the wording “all possible measures”: whether that would refer to all possible measures that could be part of a package decided at the next session, or to all possible measures available under the ILO Constitution, and whether there was a difference between using general language or explicitly stating what those measures might be. That was particularly relevant to understanding the procedure for taking action under [article 33 of the Constitution](#). Under the Standing Orders of the Governing Body, a matter could be placed on the agenda of the Conference only after a second discussion by the Governing Body. She therefore asked the Legal Adviser to clarify whether the fact that the amendment explicitly mentioned article 33 meant that the Governing Body was currently engaged in its first discussion, even if the amendment was ultimately not adopted, and whether a discussion at the March session would therefore constitute a second discussion.

(The Governing Body resumed consideration of the item after the Office circulated a revised draft decision ⁶ following consultations.)

220. **The Legal Adviser of the ILO**, responding to the questions of the Worker spokesperson, said that paragraph 5.1.1 of the [Standing Orders of the Governing Body](#) provided that: “When a proposal to place an item on the agenda of the Conference is discussed for the first time by the Governing Body, the Governing Body cannot, without the unanimous consent of the members present, take a decision until the following session.” This provision, which had been introduced in 1920, was intended to allow for sufficient time for reflection and consultations before the Governing Body could decide to place an item on the agenda of the Conference. The question as to whether a proposal has been discussed or not is a matter of factual determination. The established facts in the current matter were that: an amendment had been submitted that expressly provided for an item on measures under article 33 to be placed on the agenda of the next session of the Conference; and that another group had submitted an amendment proposing that at its next session the Governing Body should consider all possible measures to secure compliance with the Commission of Inquiry’s recommendations. The Governing Body had discussed extensively the type of action the Organization should take in order to secure compliance with the recommendations of the Commission of Inquiry, and addressed in particular, the advisability of having recourse to article 33. Apart from the drafters of those amendments, different groups and individual governments had expressed views – either in favour or against – the proposed courses of action, including measures under article 33. It was beyond question, therefore, that the Governing Body had discussed at the current 340th Session the proposal of recommending to the Conference measures under article 33 of the ILO Constitution. Accordingly, should the Governing Body decide in March 2021 to place an item on the agenda of the Conference, it would have met the requirements of paragraph 5.1.1 of the Standing Orders of the Governing Body.

221. Secondly, on the matter of the wording “all possible measures”, the Governing Body enjoyed full discretionary power as to the nature and scope of the measures it decided on or proposed to the Conference with a view to securing compliance. The words “all

⁶ See [Appendix I](#), section 3.

possible measures” therefore should be understood as covering any type of action, thus including “wise” and “expedient” measures under article 33 of the Constitution. “All” being synonymous to “without exception”, it is very difficult to see how “all possible measures” could be construed differently. Moreover, in presenting her group’s proposed amendment, the Worker Vice-Chairperson had explicitly stated that no possible measures would be excluded. It is clear, therefore, that should the Governing Body undertake a consideration of all possible measures to ensure compliance with the Commission of Inquiry’s recommendations, this consideration could include a broad range of measures, including measures to be recommended to the Conference under article 33 of the ILO Constitution.

- 222. The Chairperson** drew the Governing Body’s attention to a new revised draft decision that had been agreed to by the Workers’ and Employers’ groups and many Governments.
- 223. The Worker spokesperson** said that the proposed text of the amended draft decision currently before the Governing Body struck a fair balance between sending a strong message that improvements must take place before the March sitting and giving the Office a strong role, whereby the Director-General was asked to engage with the Government on the implementation of the recommendations and also on a possible agreement to have a special representative on the ground, which had been an important means of bringing about progress in other cases. It was to be hoped that the Office could help the Government to address the challenges and find the correct way forward to ensure that there could be proper social dialogue. The fact that the Government had accepted the recommendation to request help from the Office to identify the representative workers’ and employers’ organization for the purposes of dialogue was very welcome. The Workers’ group could therefore support the new revised draft decision, pending further discussion in March.
- 224. The Employer spokesperson** said that his group deplored the arrogant tone of the intervention made by the Venezuelan Government, which was unacceptable in the context of social dialogue and tripartism. The report of the Commission of Inquiry contained clear, tangible recommendations for the way forward. He highlighted that the new revised draft decision was far from what the Employers had wanted and expressed frustration at having had to compromise to such an extent. However, the provisions under article 26 of the Constitution must be protected and he expressed the hope that the new revised draft decision would constitute a meaningful foundation for progress for the people of Venezuela. He expected the document prepared by the Office to include all possible measures, including those in the ILO Constitution. The support of the Director-General was key to persuading the Venezuelan Government to work with the ILO and implement the recommendations of the Commission of Inquiry. He thanked the Governments of Peru, Canada, Brazil, the United States, Chile, Colombia, Costa Rica, Guatemala, Honduras and Paraguay for their amendments and subamendments. He clarified that he had misunderstood the position of the European Union and, as a result, thanked it for its support in fighting against human rights violations. He supported the new revised draft decision and looked forward to a comprehensive and constructive discussion in March 2021.
- 225. Speaking on behalf of the European Union (EU) and its Member States**, a Government representative of Germany said that the EU attached great importance to human rights, including freedom of association of workers and employers, and the fundamental significance of tripartite consultations. He underlined the EU’s immense disappointment at the replies of December 2019 and August 2020 from the Venezuelan Government. Both proved the Government’s unwillingness to accept the conclusions and

recommendations outlined in the Commission of Inquiry report and its failure to implement them by the stipulated deadline of 1 September 2020. He strongly urged the Venezuelan Government to work with the Office to implement those conclusions and recommendations and to engage in greater efforts to encourage and sustain inclusive tripartite social dialogue. He supported the Director-General's efforts towards achieving that, and encouraged him to continue them. It was important to come to a decision by consensus at the present session of the Governing Body. During the next session in March 2021, all possible measures, including those in the ILO Constitution, to ensure compliance with the recommendations of the Commission of Inquiry must be considered. The EU and its Member States supported the new revised draft decision.

- 226. Speaking on behalf of Australia, Brazil, Canada, Chile, Colombia, Costa Rica, Guatemala, Honduras, Paraguay, Uruguay and her own Government,** a Government representative of Peru welcomed the constructive dialogue and remained open with a view to achieving consensus on an issue that would affect the lives of people who suffered daily violation of their rights. The time accorded for informal discussion had facilitated transparent tripartite dialogue. All proposals were discussed in a constructive manner and with the sole aim of achieving a compromise on such an important issue. The result of those discussions could be considered a basis for tripartite understanding. She remained convinced that the most appropriate course of action was to explicitly mention article 33 of the ILO Constitution in the draft decision to refer the case to the International Labour Conference, along with suggestions of several measures to be taken, as it would encourage the implementation of the recommendations of the Commission of Inquiry. She supported the new revised draft decision.
- 227. A Government representative of Barbados** said that social dialogue had not yet been exhausted as a tool for seeking solutions. Furthermore, all options must be explored before abandoning the search for solutions. The matters raised in the report of the Commission of Inquiry were serious and must be addressed urgently. The Office must commit to technical assistance as part of efforts to resolve outstanding issues. He reiterated the call to continue broad, inclusive and meaningful dialogue with all stakeholders, governments, employers, workers and civil society in order to reach agreement. He strongly encouraged all relevant parties to continue constructive engagement.
- 228. A Government representative of the Russian Federation** said that the future measures to address the complaint against the Venezuelan Government would affect substantive actions of the ILO and the functioning of its supervisory mechanisms. Efforts to achieve consensus must be optimized, but without resorting to haste. Referring the matter for consideration at the 2021 session of the International Labour Conference in accordance with article 33 of the ILO Constitution was a very serious step that could have far-reaching implications for the ILO. That approach was unacceptable for his Government. The ILO should continue to work with the Venezuelan Government to assist in the implementation of the recommendations of the Commission of Inquiry. To that end, technical assistance was vital.
- 229.** The revised draft decision contained entirely new elements and significantly changed the meaning of the draft decision as amended by the Workers' group, which his Government had been willing to support in the spirit of compromise. Contrary to the procedure set out in subparagraph 29(f) of the special arrangements for the 340th Session of the

Governing Body,⁷ whereby any revised draft decisions must be circulated at least 48 hours before the discussion of that item resumed, his Government had not had the opportunity to consider the new revised draft decision. If a result that was acceptable to all was not achieved, the only remaining option was to defer consideration of the matter until the March 2021 session of the Governing Body.

- 230. A Government representative of the United States** thanked the Workers and Employers for their willingness to compromise on an important issue that posed difficult challenges. He supported the new revised draft decision and looked forward to its adoption at the present session and to the discussion on all possible measures at the March 2021 session.
- 231. A Government representative of China** expressed the hope that the ILO would continue to provide technical assistance to the Venezuelan Government to support it in implementing the recommendations of the Commission of Inquiry, as the technical assistance provided thus far had already yielded tangible results and the Government had expressed strong willingness to continue to receive that assistance. The Workers' amendment to the draft decision was more appropriate and acceptable than the new revised draft decision. If consensus could not be achieved, the item should be deferred to the March 2021 session of the Governing Body.
- 232. A Government representative of Cuba** rejected the initial amendments and subamendments put forward by some Governments and also the new revised draft decision, which had not been presented in the time allowed by procedure. The most appropriate course of action would be to take note of the reply provided by the Venezuelan Government, as stated in the original draft decision, and to definitively remove the matter from the agenda of the ILO. The amendment presented by the Workers' group was an acceptable solution as it had had the support of the Venezuelan Government. His Government had no concerns about the actions undertaken by the Venezuelan Government. His Government would continue to uphold the ILO's spirit of cooperation, dialogue and respect.
- 233. A Government representative of the Islamic Republic of Iran** said that the timing of the new revised draft decision contravened the procedure in subparagraphs 29(b) and (f) of document GB.340/INS/1(Rev.1). In accordance with subparagraph (g) of the same document, the item should be deferred to the 341st Session (March 2021) of the Governing Body. He encouraged the Venezuelan Government to work closely with the ILO, the Commission of Inquiry and the social partners to resolve outstanding issues, and invited the Office to support that resolution by providing technical assistance.
- 234. A Government representative of Turkey** said that the Venezuelan Government was clearly committed to resolving the issues relating to labour relations and working conditions in the country. The information submitted showed that it had spared no effort in that regard. More time was needed for the results of new labour regulations and measures to become evident. He encouraged the Venezuelan Government to continue to work closely with the ILO, which should provide technical assistance.
- 235. A Government representative of Brazil** said that, in view of the Venezuelan Government's continued attempts to delay ILO action that could protect workers and employers from the systematic violation of their labour rights, the Governing Body must apply the provisions under article 33 of the Constitution to refer the matter to the 2021

⁷ GB.340/INS/1(Rev.1).

session of the International Labour Conference. The Governing Body must take action immediately. If it did not provide a strong and meaningful response to the refusal by the Venezuelan Government to comply with the recommendations of the Commission of Inquiry, the ILO supervisory system would have no moral grounds to assert itself in other cases. He supported the revised draft decision, which reflected the main concerns of the tripartite constituents.

- 236. A Government representative of the Bolivarian Republic of Venezuela** said that his Government deeply regretted what had happened during the sitting the previous day. His Government was not responsible for the fact that one of the groups, in a display of its continued lack of reliability, decided to withdraw its support for the revised draft decision put forward by the Workers' group, which was fleetingly published on the ILO website. That capricious act was the cause of the numerous subsequent proposals. He also deeply regretted that the Chairperson had arbitrarily agreed, without any tripartite consultation, to defer the discussion of the item to the present sitting. During the previous day's sitting, his Government had been arbitrarily denied the right to take the floor and the right to reply, which was an established international right for legitimate self-defence. It was no surprise that his Government had once again, like on so many other occasions, been denied the right to defend itself. However, the Venezuelan Government knew how to react and respond, was aware of its rights, and recognized when actions were taken arbitrarily, without democracy and on the basis of opaque procedure. The appalling argument used to explain why his Government had not been given the right to reply, which it had requested several times, was that no debate was taking place. His Government had been explicitly referred to on innumerable occasions during the discussion, including by the Chairperson and the Workers' and Employers' groups. Paragraph 5.8 of the Standing Orders of the Governing Body stated that any member or group specifically referred to in the discussions may exercise the right to reply. Therefore, under appalling legal advice, the Chairperson had flagrantly denied his Government the right of reply. The tripartite dialogue repeatedly mentioned by various Governments had been missing during that sitting; the dialogue that had taken place was bipartite. By contrast, his Government had respected and carried out broad and inclusive tripartite discussion at the national level. He took due note with interest of the occurrences of the previous day's sitting.
- 237.** He understood as a spectator of the previous day's sitting that consultations had taken place between the constituent groups, negotiating as though they were trading goods or currency, comparing one case with another. His Government found that kind of negotiation mechanism to be outrageous and shameful. He said that, if constituents wished to negotiate in such a manner, they should be aware of the value and weight of the items they were trading.
- 238.** He rejected the revised draft decision, which, having being presented on the same day as it was being discussed, contravened subparagraphs 29(b) and (f) of document GB.340/INS/1(Rev.1). Despite supporting the original draft decision, his Government had also fully supported the Workers' amendment.
- 239.** He deeply regretted being faced with actions that once again demonstrated the need for the poor actions and procedures of the ILO supervisory bodies to be improved. The unacceptable events of the previous day's sitting and the conduct of the entire session had robbed the ILO of its seriousness and credibility. That had confirmed his Government's belief that everything related to the complaint against his Government had been plagued with political interests that were far from the noble interests of the world of work.

- 240.** In view of the withdrawal of the Workers' amendment to the draft decision, his Government accepted and committed to the original draft decision. It did not support and accorded no commitment to any other amendments or subamendments and rejected the untimely revised draft decision, the content of which aligned with the political and economic interests of a group that was against the Venezuelan Government. He appealed to those honest Governments that had supported his thus far and all Governments that recognized the poor procedure implemented during that sitting to reject the revised draft decision. His Government confirmed its willingness to continue to cooperate with the ILO supervisory bodies provided that their actions were objective, impartial, transparent, in line with the law, and far removed from political interests against his Government. With technical assistance from the ILO, his Government would continue to progress towards perfecting its compliance with the ILO Conventions concerned in the complaint. The application of the provisions under article 33 of the Constitution to the complaint against the Government of Venezuela was unlawful. For the sake of honest procedure, in line with the rules of procedure of the Governing Body, and in view of the clear lack of consensus on the matter, he asked for the case to be deferred until March 2021.
- 241. A Government representative of Cuba** supported the concerns raised by the representative of the Bolivarian Republic of Venezuela regarding the mechanisms implemented in relation to the case and reiterated his Government's rejection of the amendments to the draft decision submitted that day, which had been submitted in an untimely manner.
- 242. A representative of the Director-General** (Deputy Director-General, Management and Reform) said that the current discussion was taking place under paragraph 29(g) of the special arrangements for the virtual session of the Governing Body contained in document GB.340/INS/1(Rev.1). The procedures set out therein did not require a notice period, thus enabling the Governing Body to act responsively during urgent and important negotiations such as the case at hand. "Consensus" did not mean "unanimous support". While parties could express opposition to a draft decision, only a declaration that explicitly blocked consensus would prevent it from being adopted. He had not heard any such language in the discussion so far. The same approach would be taken with regard to any decision to put a draft decision to a vote by correspondence.
- 243. A Government representative of Cuba** said that his Government blocked consensus on the revised draft decision submitted that day.
- 244. A Government representative of the Bolivarian Republic of Venezuela** was authorized to speak in accordance with paragraph 1.8.3 of the Standing Orders in response to comments directed at his Government. He said that his delegation had understood the current meeting to be simply a continuation of the previous day's discussions, rather than a resumption under paragraph 29(f) of document GB.340/INS/1(Rev.1). His delegation had repeatedly been denied the right to take the floor the previous day. Consensus as defined by the special arrangements did not exist on the amendments to the draft decision, which had been submitted to further the political and economic interests of a group of governments hostile to his own. His Government would accept only the original draft decision contained in paragraph 7 of document GB.340/INS/13. Given the lack of consensus, the matter should be deferred to the next session of the Governing Body.
- 245. The Chairperson** said that despite the commendable efforts of the Workers' and Employers' groups consensus on the draft decision had not been reached, and the matter would therefore be deferred to the next session of the Governing Body.

- 246. The Employer spokesperson** said that it was his understanding that only the titular members of the Governing Body, which did not include Cuba, could block consensus. The draft decision should be put to a vote by correspondence given that a majority of members had expressed support for that course of action.
- 247. A Government representative of Peru** said that consideration must be given to the Governments' views. She called upon the Governing Body to abide by the special arrangements; they appeared to be poorly understood. Her Government believed that the matter could not be deferred and that a vote by correspondence would be straightforward.
- 248. A Government representative of the Russian Federation** said that insufficient time remained during the current session for further consultations, and the necessary detailed tripartite negotiations could not take place remotely. A vote by correspondence would therefore be inappropriate. Indeed, that procedure applied only to urgent, non-controversial or routine matters; the matter at hand could not be classified as such.
- 249. A Government representative of China** expressed his Government's support for the statement made by the representative of the Russian Federation. Given the limited time available and the complex nature of the case, the discussion should be deferred to the Governing Body's next session.
- 250. The representative of the Director-General** (Deputy Director-General, Management and Reform) said that the decision to put the matter to a vote by correspondence would also require consensus within the Governing Body.
- 251. The Legal Adviser** clarified that, contrary to the view expressed by the representative of the Russian Federation, the Governing Body could decide to submit the matter to a vote by correspondence, as expressly provided for in paragraph 29(g) of document GB.340/INS/1(Rev.1). Referring to the statement of the Employer spokesperson that only regular members could block consensus, he explained that the special arrangements had been designed to simulate, to the extent possible, an in-person meeting, during which the Chairperson before gaveling a decision would ask all Governing Body members present in the room, both regular and deputy, whether there was consensus on that decision. Therefore, the intervention by the representative of the Government of Cuba was valid and effectively blocked consensus. It was only when a matter under consideration was put to a vote that only regular Governing Body members were permitted to vote. The same distinction between, on one hand, determination of consensus where all Governing Body members were invited to take position, and vote, on the other hand, where only regular members were entitled to participate, was also reflected in paragraph 27(a) and (b) of document GB.340/INS/1(Rev.1) with respect to decisions by correspondence.
- 252. The Worker spokesperson** said that the Governing Body must adhere to the special arrangements to maintain its credibility. She asked whether members must also expressly block consensus on the decision to put the draft decision to a vote by correspondence.
- 253. A Government representative of the United States** expressed regret that a compromise on the draft decision could not be reached. Rejection of the recommendations of a Commission of Inquiry was both rare and serious. As such, effective action must be taken to secure compliance. His Government would fully support a vote by correspondence on the draft decision.

- 254. The Legal Adviser** said that the same rules surrounding consensus applied to the decision to put the draft decision to a vote by correspondence.
- 255. A Government representative of the Russian Federation** reiterated his Government's view that a vote by correspondence was not acceptable; it therefore blocked consensus.
- 256. A Government representative of Cuba** said that his Government rejected the proposed vote by correspondence.
- 257. A Government representative of the Bolivarian Republic of Venezuela** was authorized to speak in accordance with paragraph 1.8.3 of the Standing Orders in response to comments directed at his Government. He said that given the lack of consensus on the amendments to the draft decision and on the vote by correspondence, the matter should be deferred to the next session of the Governing Body.
- 258. A Government representative of Peru** said that her Government strongly disagreed with the deferral of the matter and would block such a decision. She requested a short adjournment.
- 259. The Worker spokesperson** echoed the request for a short adjournment so as to consider how best to proceed and examine whether true consensus could be reached. She noted that there was also a lack of consensus on deferring the matter to the next Governing Body session. The matter must be dealt with in strict compliance with the rules. She expressed her disappointment at her group not being given the opportunity to present a new proposal to the Governing Body that, in her view, could have led to 100 per cent consensus.
- 260. The Employer spokesperson** said that he had never known the Governing Body not to be able to reach a consensus eventually, even on contentious issues. He thanked the Workers and the Governments for reaffirming their commitment to upholding the values of the Organization in such a serious case. He looked forward to receiving a strong, well-written text from the Office on which the Governing Body could work at its March 2021 session.
- 261. The Chairperson** said that under the circumstances he deemed it impossible for consensus to be reached either on the draft decision by pursuing negotiations or on putting of the item to a vote by correspondence and consequently an adjournment would serve no purpose. He decided therefore that the item would be deferred to the 341st Session (March 2021) of the Governing Body, as provided for in paragraph 29(g) of document GB.340/INS/1(Rev.1), and brought the discussion to a close.

14. Complaint concerning non-observance by Bangladesh of the Labour Inspection Convention, 1947 (No. 81), the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (GB.340/INS/14(Rev.1))

- 262. A Government representative of Bangladesh** said that his Government remained committed to promoting international labour standards and had made significant strides over the past decade in upholding labour rights. The economy of Bangladesh was one of the fastest growing in the world, and he recognized the contribution that the workers in his country made towards the achievements in that regard. The COVID-19 pandemic had placed an extraordinary strain on the economy, as a result of orders being

cancelled, with long-term consequences for workers. The Government had allocated significant resources to stimulate the economy and to support workers, including returning migrant workers. It had prepared a guide on the prevention and mitigation of COVID-19 in the workplace, and was preparing labour relations guidelines on COVID-19.

- 263.** Since 2017, the Government had: amended the Bangladesh Labour Act, 2006, to ensure better working conditions; adopted the Bangladesh Export Processing Zone (EPZ) Labour Act, 2019, which enabled workers in EPZs to form associations; developed standard operating procedures for trade union registration and for addressing anti-union discrimination and unfair labour practices; introduced a helpline to receive workers' complaints; almost completed work on creating a database for complaints; established a tripartite consultative council in the ready-made garments sector; increased the minimum wage in the ready-made garments sector; strengthened the Department of Inspection for Factories and Establishments and introduced a labour inspection management app to track labour inspections and remediation efforts of factories, alongside the adoption of four related standard operating procedures; implemented the Better Work Bangladesh programme to improve auditing systems and a Mother at Work programme in the ready-made garment sector; upgraded the Directorate of Labour to a Department and established the Workers' Resource Centre to promote social dialogue; and made progress towards ensuring the fire, building and electrical safety of ready-made garment factories, including through the implementation of the Occupational Safety and Health Policy and the Domestic Workers' Protection and Welfare Policy. Those measures had all been introduced following tripartite consultations and in cooperation with the ILO, and he thanked the ILO and other development partners for their contributions to those reforms.
- 264.** In that context, it was therefore unfortunate that an unwarranted complaint had been lodged against his Government, and it was regrettable that the complainants had not consulted national authorities prior to doing so. The complaint contained several inaccuracies. In fact, in the murder case of Mr Aminul Islam, the accused had been convicted in April 2018. Of the ten cases filed against trade union leaders in connection with the Ashulia incident of 2016, eight had been concluded and no charges had been brought against any of the workers. Under Case No. 3203 of the Committee on Freedom of Association, all ten cases had been investigated, eight had been amicably settled and only two were being processed in the courts. The reference made to section 210 of the Bangladesh Labour Act was inaccurate as that provision no longer appeared in the amended law, adopted in October 2018. The process to amend the Bangladesh EPZ Labour Act had included 16 comprehensive and inclusive consultations with all relevant stakeholders, including workers' and employers' representatives. Pursuant to the amended Bangladesh Labour Act, the minimum membership requirement to form a trade union had been reduced to 20 per cent, following consultations with the ILO. However, the Government took note of some of the other issues mentioned in the complaint, and was ready to work with the ILO and other relevant partners to address them.
- 265.** In order to further protect and promote labour rights in Bangladesh, the Government was developing a time-bound work plan on the labour sector of Bangladesh, with the engagement of the EU and the ILO. Under that work plan, the Bangladesh Labour Act would be further amended; new labour courts would be established to eliminate the backlog of cases; the labour inspectorate would be expanded and strengthened and standard operating procedures would be introduced for inspections in EPZs; the National Action Plan to Implement the National Child Labour Elimination Policy would be updated; the hazardous child labour list would be revised through a tripartite committee;

and measures would be taken to combat violence and harassment against workers, ensure an independent conciliation and arbitration system, promote social dialogue and improve the process for trade union registration. The Government was preparing for the possible ratification of the Minimum Age Convention, 1973 (No. 138), and the Protocol of 2014 to the Forced Labour Convention, 1930. However, the COVID-19 pandemic had led to factory closures and a widespread threat of unemployment had emerged, which could fundamentally weaken the rights and privileges enjoyed by workers.

- 266.** As significant legal and administrative reforms had been introduced, the Government should be allowed the time to demonstrate the impact of those reforms before any verdict was reached on their efficacy. The Government remained committed to ensuring labour rights and improving working conditions, and recognized the importance of the social partners. He would welcome constructive, evidence-based criticism, and would appreciate cooperation with and support from development partners. He called on the Governing Body to close the procedure under article 26 and continue to support the Government in its efforts to uphold labour rights.
- 267. The Worker spokesperson** expressed regret that the reply of the Government of Bangladesh to the article 26 complaint did not reflect the serious exploitation, harm and abuse suffered by workers and trade unions in Bangladesh. The Bangladesh Labour Act and the Bangladesh EPZ Act still did not comply with relevant ILO Conventions and the rules for their implementation had not been written. The Committee of Experts on the Application of Conventions and Recommendations planned to review supplementary information regarding the application of Conventions Nos 87 and 98.
- 268.** There were still no collective agreements for EPZs, workers could not form trade unions and there was no established collective bargaining framework. Despite a reduction in minimum membership levels for trade unions, many obstacles still prevented the registration of representative trade unions, including allegations of bribery and collusion. Employer-dominated unions faced no such obstacles, calling into question the effectiveness of the standard operating procedures. Legislation did not comprehensively prohibit actions aimed at dominating trade unions and pressuring workers to join company unions. The Government had failed to take steps to broaden protection against any such interference, as recommended by the Committee of Experts, and anti-union discrimination and dismissals were widespread.
- 269.** Despite a projected workforce of 70 million people in 2020, the labour inspectorate had only 308 inspectors in August 2019 and one legal officer responsible for processing complaints. Moreover, the entry of inspectors into EPZs was subject to the approval of the Executive Chairman of the Bangladesh EPZ Authority, whose priority was to promote foreign investment and not enforce labour law. Labour inspectors must be provided with proper credentials and granted unrestricted access to any workplace liable for inspection, as called for by the Committee of Experts. She highlighted reports of trade union leaders suffering violent attacks by hired criminals, which rarely resulted in police investigation. Management interference with trade unions was very common. Penalties envisaged for unfair labour practices and acts of anti-union discrimination by employers remained insufficiently dissuasive and victims did not have access to remediation. Moreover, security forces had maintained an anti-union bias, leading to the criminalization and repression of trade union protests and strikes. In response to wage protests, thousands of workers had been dismissed, blacklisted or charged with fabricated offences in 2018 and 2019. According to reports, approximately 80 cases were still pending in connection with the Ashulia police station cases, some of which were being investigated by the Committee on Freedom of Association. The Government had

failed to take steps to strengthen police accountability for arbitrary deprivation of liberty, provide training for security forces or institute an independent inquiry into the allegations of death threats, physical abuse and beatings of trade unionists, as recommended by the Committee. The Committee had also highlighted the repeated surveillance and intimidation of trade unionists by the police.

- 270.** The persistent complaints from workers in Bangladesh had been noted in a special paragraph of the report of the Conference Committee on the Application of Standards in 2016. There was a three-year backlog of cases in the country's labour courts, and workers did not have direct access to the judicial system. As such, workers had little confidence in the settlement of labour disputes or handling of grievances. Attempts to file criminal complaints for violence or intimidation were routinely refused and often led to retaliation. Penalties for unfair labour practices and acts of anti-union discrimination were not sufficiently dissuasive.
- 271.** She acknowledged the impact of the COVID-19 pandemic on the economy of Bangladesh and the financial contributions made by the international community, but said that the support provided to workers had been insufficient. She highlighted reports of the dismissal of up to 300,000 workers, especially trade union members and leaders, and high numbers of cases of non-payment of retrenchment compensation. In addition, 165 workers had been dismissed two weeks previously following a demonstration to demand unpaid wages. The recovery from the pandemic in Bangladesh must be based on a strong adherence to international labour standards. It was regrettable that buyers were taking advantage of the pandemic to reduce prices. The ITUC would work with partners to ensure an end to corporate immunity from ethical obligations and to promote responsible business conduct in global supply chains. As factories reopened, provision should be made for labour inspections and occupational safety and health.
- 272.** She hoped that the Government would agree to engage with the Office, ACTRAV and ACT/EMP, and to work in consultation with the social partners to develop a time-bound road map with tangible outcomes in order to address the outstanding issues that had given rise to the article 26 complaint. She reiterated that the complaint was not unfounded and said that her group supported the draft decision, which was appropriate and balanced.
- 273. The Employer spokesperson** welcomed the detailed observations provided by the Government of Bangladesh in response to the allegations made in the complaint. He took note of the Government's pledge to further develop the labour sector in line with international standards and welcomed the actions taken in that regard, including: the adoption of legislative amendments in 2013 and 2018 to the Bangladesh Labour Act, on the basis of tripartite consultation; the development of a road map to amend the Bangladesh Labour Rules in consultation with tripartite constituents, the completion of which, he noted, had been delayed by the effects of the pandemic; the identification of clear steps towards simplifying union registration; the adoption of standard operating procedures to address anti-union discrimination; the enactment of the Bangladesh EPZ Labour Act; and the reactivation of child labour monitoring committees. He highly commended the Government for its openness and cooperation with the Office and the social partners to improve and develop labour legislation on the basis of tripartite consultation.
- 274.** The IOE, the ITUC, IndustriALL Global Union, the Bangladesh Employers' Federation and several brands and retailers had been working with the ILO to support Bangladeshi manufacturers in surviving the economic disruption caused by the COVID-19 pandemic and to protect garment workers' income, health and employment. The main objective

was to create resilient and sustainable social protection systems that were strengthened by responsible supply chains whose actors were committed to paying wages that allowed for sustainable employer and employee contributions to social protection systems. The IOE would continue to work closely with the Bangladesh Employers' Federation to further develop and implement that initiative. The Employers' group supported the draft decision.

- 275. Speaking on behalf of the European Union and its Member States**, a Government representative of Germany said that North Macedonia, Montenegro, Albania and Norway aligned themselves with the statement. He emphasized the importance of a well-functioning labour inspectorate for the implementation of labour rights and thanked the Office for its engagement in promoting those rights in Bangladesh. He noted the 2018 amendment of the Bangladesh Labour Act, and the adoption of the Bangladesh EPZ Labour Act. However, most issues of concern remained and must be addressed without delay, including severe gaps in alignment with the ILO Conventions. He noted with concern that the already low number of labour inspectors had decreased year on year from 2017 to 2019.
- 276.** The EU and Bangladesh had a long-standing relationship fostering cooperation on labour standards, reinforced by a 2001 cooperation agreement, the framework of the Sustainability Compact and the "Everything but Arms" initiative. He underlined the importance of respect for labour rights to support sustainable and resilient recovery from the COVID-19 crisis and recalled the efforts of Team Europe to help Bangladeshi workers in export-oriented industries affected by COVID-19 through the provision of €113 million. He reaffirmed the EU's strong commitment to cooperating with the Government of Bangladesh, in partnership with the ILO, including through programmes aimed at achieving full compliance with international labour standards.
- 277.** He welcomed the commitment made by the Government in October 2019 to develop a labour rights road map jointly with the EU. He called on the Government to deliver on its commitment by presenting without delay a comprehensive road map for subsequent implementation with the support of the ILO. Strong deliverables were necessary for Bangladesh to continue to benefit from tariff-free exports to the EU.
- 278.** He underscored the EU's concerns regarding the current complaint and urged the Government to take action to address those concerns. He also called on the Government to take all the necessary legal and practical steps in cooperation with workers' and employers' organizations and other relevant stakeholders to promote the development of a sound and sustainable industrial relations system covering all sectors and areas of the country, including EPZs. Urgent action was needed to ensure the elimination of child labour and forced labour. The EU supported the draft decision.
- 279. A Government representative of India** took note with appreciation of the comprehensive response given by the Government of Bangladesh and welcomed the significant legal and administrative reforms to the labour and employment sector. The Government had demonstrated strong commitment to ensuring the rights of workers. The fact that the amendments to the labour legislation had been finalized through intense tripartite consultations and in close cooperation with the ILO was praiseworthy and reflected the seriousness of the Government's attitude to the issue. The Government should be allowed additional time for the benefits of those reforms to be felt, particularly in the context of the pandemic. He urged the ILO and the international community to continue to support the Government in its efforts to strengthen employment and labour market policies, especially in addressing the challenges related to COVID-19. In view of its strong commitment to work closely with the social partners, the Government should

be given sufficient opportunity to resolve all issues through the regular supervisory mechanisms of the ILO.

- 280. A Government representative of the United States** said that, while the report by the Government of Bangladesh described some reforms, serious concerns remained unaddressed, as highlighted by the ILO supervisory bodies. He urged the Government to bring the Bangladesh Labour Act and the Bangladesh Labour Rules into line with Conventions Nos 81, 87 and 98, including through amendments to further alleviate the onerous minimum membership requirements and excessive sanctions against workers engaging in certain activities. The Government should fully implement the changes requested by the Committee of Experts in relation to rights in EPZs. The mass dismissal of workers following their participation in the 2018 minimum wage protests and the arrests of hundreds of protestors raised serious concerns. While the 2018 amendment of the Bangladesh Labour Act explicitly prohibited anti-union activities by employers, fines for such activities were insufficiently dissuasive and there was little evidence of enforcement. The simplification of the trade union registration process had resulted in an increase in the registration rate. However, worker groups continued to report arbitrary denial of applications from disfavoured unions and the routine imposition by Government officials of conditions with no basis in law or regulations. The case merited serious consideration by the Governing Body. He urged the Government of Bangladesh to implement the changes recommended as soon as possible and to avail itself of ILO assistance as needed. His Government supported the draft decision.
- 281. A Government representative of Morocco** said that the communications by the Government of Bangladesh to the Office demonstrated its willingness to resolve the concerns raised in the complaint, which was further proved by the encouraging measures already undertaken by the Government. His Government encouraged the Government of Bangladesh in its continued efforts to address the issues raised in the complaint.
- 282. A Government representative of Canada** recognized the efforts made by the Government of Bangladesh to improve working conditions in recent years and appreciated its commitment to making further improvements. However, her Government was concerned by the ongoing violations of the right to freedom of association and the continued obstacles to the right of workers to organize. The reports of anti-union discrimination, violence, harassment and threats against trade union leaders and activists with apparent impunity for offenders were a matter of concern, as were the reports of arbitrary denial of trade-union registration and the right to collective bargaining. While recognizing the detrimental effect of the COVID-19 pandemic on Bangladesh's economy and its ability to undertake substantive reforms, she said that efforts towards compliance with international labour standards must continue. A time-bound road map with specific actions and tangible outcomes, targets and indicators would facilitate improvements and allow for progress to be measured objectively. She encouraged the Government to continue to work in close cooperation with the Office and the social partners. Constructive social dialogue was essential to advancing decisions. Her Government remained committed to supporting the Government of Bangladesh and all stakeholders in resolving all concerns, and it supported the draft decision.
- 283. A Government representative of Cuba** said that he noted the measures taken by the Government of Bangladesh to improve labour rights, freedom of association and collective bargaining. In view of the information provided by the Government of Bangladesh, no further action would be necessary. He urged the Government to

continue to engage in social dialogue and tripartite consultations and to cooperate with the ILO. His Government was in favour of providing governments with political space to work with other relevant actors under national legislation on meeting their obligations and commitments in relation to ILO instruments.

- 284. A Government representative of Switzerland** thanked the Office for its commitment to promoting the fundamental principles and rights at work in Bangladesh. He took note of the amendments made to Bangladesh's labour legislation in response to the complaint, the measures taken in respect of EPZs and the measures to simplify and increase the transparency of the trade union registration process. He welcomed the progress made in the textile and garment sector, particularly through the Better Work programme, which Switzerland supported financially. However, his Government remained concerned by the incidents and complaints related to non-compliance with the principles of freedom of association and collective bargaining. Urgent action must be taken to ensure compliance with Conventions Nos 87 and 98. His Government was also concerned by the two complaints submitted to the Committee on Freedom of Association and recalled the seriousness and urgency of one of those complaints. His Government supported the draft decision.
- 285. A Government representative of Turkey** commended the positive steps taken by the Government of Bangladesh in response to the complaint and noted that the Government had updated its national laws to bring them into line with the ILO Conventions on the basis of tripartite consultation and with the active involvement of the ILO Country Office. Those efforts demonstrated the Government's commitment to further improve working conditions. He expressed the hope that the legislation would be effectively implemented, that developments would continue to be reported to the ILO and that the Government's efforts to consult the social partners would be taken into consideration. He encouraged the Government to continue working closely with the ILO and to increase its efforts to improve working conditions.
- 286. A Government representative of Iraq** took note of the progress made by the Government of Bangladesh but encouraged it to make further efforts in cooperation with the social partners to improve working conditions.
- 287. The Employer spokesperson** thanked the Governments for their valuable contributions to the discussion.
- 288. The Worker spokesperson** welcomed the support that had been shown for the draft decision and noted with appreciation the commitment expressed by the Government of Bangladesh to work closely with the ILO to address the outstanding issues. The international trade union movement and ACTRAV were committed to working with the Government of Bangladesh to that end.
- 289. A Government representative of Bangladesh** expressed his Government's thanks to the EU for the assistance it had been providing to workers in the ready-made garments and leather sectors in Bangladesh during the COVID-19 pandemic. He had taken due note of the valuable comments made during the discussions. In response to some of the concerns raised, he clarified that requests to form trade unions were not rejected arbitrarily, and the grounds for rejections were communicated by post and published online. Appeals could be lodged with the labour courts within 30 days, and government officials, judges, lawyers and employers were receiving training in that regard, with the assistance of the ILO. Cases of unfair labour practices could be referred to the labour courts. Noting that some of the comments made in respect to labour inspection had been based on outdated information, he said that the Government was ensuring

transparency, accountability and openness at all levels and that labour inspector vacancies would continue to be filled and numbers increased as and when necessary. Labour rights would be further improved by a national tripartite work plan, although efforts in that regard had been hindered by the COVID-19 pandemic. The Government had engaged with the tripartite constituents in its response to the pandemic.

Decision

290. In view of the information communicated by the Government of Bangladesh on the situation of freedom of association in the country and taking due note both of the Government's commitment to continue to further improve the overall situation and to address the outstanding issues before the supervisory bodies, the Governing Body, on the recommendation of its Officers:

- (a) requested the Government to develop, with the support of the Office and of the secretariat of the Workers' and Employers' groups, and in full consultation with the social partners concerned, a time-bound road map of actions with tangible outcomes to address all the outstanding issues mentioned in the complaint submitted under article 26 to the 108th Session of the International Labour Conference (2019);
- (b) requested the Government to report on progress made in that regard to the Governing Body at its next session; and
- (c) deferred the decision on further action in respect of the complaint until its 341st Session (March 2021).

(GB.340/INS/14(Rev.1), paragraph 6)

15. Complaint concerning non-observance by Chile of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), the Maternity Protection Convention (Revised), 1952 (No. 103), the Workers' Representatives Convention, 1971 (No. 135), and the Labour Relations (Public Service) Convention, 1978(No. 151) (GB.340/INS/15(Rev.1))

291. The Worker spokesperson said that the matters currently pending before the Committee of Experts on the Application of Conventions and Recommendations (CEACR) and the Committee on Freedom of Association were evidence that the application of the Chilean Labour Code in law and practice raised concerns about its compliance with Conventions Nos 87 and 98. While the issues highlighted by the complainants were of importance, they had been receiving the attention of the ILO supervisory bodies, particularly since the adoption of Act No. 20.940 in 2016 in which a number of amendments taking into account the comments of the experts had been approved. The Government of Chile should take measures to ensure full compliance in law and practice with Conventions Nos 87 and 98, based on the comments of the supervisory bodies, and continue to work with the ILO in the framework of its supervisory system to address all outstanding issues. The procedure under article 26 of the ILO Constitution should only be used as a last resort for serious violations and a persistent lack of compliance. She supported the draft decision.

- 292. The Employer spokesperson** welcomed the Government's thorough and detailed response and noted with appreciation its ongoing commitment and willingness to engage with ILO supervisory bodies. The special supervisory procedure under article 26 should indeed only be used as a last resort. His group agreed with the Government of Chile that the allegations were similar to the complaint made in 2016, and did not have the level of seriousness required for the appointment of a Commission of Inquiry. Furthermore, the CEACR had made positive observations on the legislative changes made during the labour reform in Chile in 2017. He trusted that the Chilean Government would continue to fulfil its reporting obligations to allow the CEACR to monitor its implementation of the Conventions concerned in law and practice. He supported the draft decision.
- 293. A Government representative of Chile** summarized his Government's observations regarding the complaint, which were contained in the appendix to the document. A new director had been appointed to the Labour Directorate by means of a public competition organized by the public senior management system, which involved a strict, regulated and transparent selection process. The current situation in Chile did not warrant the appointment of a Commission of Inquiry. The Government had recently initiated a multi-step process by means of social dialogue to draft a new Constitution. The decision had been approved through a public referendum, and the next step would be to appoint members of a Constitutional Commission. The ILO would be notified in due course of the labour-related standards proposed, which would be in line with Chile's international labour obligations. His Government supported the draft decision and pledged to continue to notify the ILO's regular supervisory bodies of the measures adopted to apply the relevant Conventions in law and practice.
- 294. Speaking on behalf of the European Union and its Member States**, a Government representative of Germany said that North Macedonia, Montenegro, Albania and Norway aligned themselves with the statement. She noted that the complaint did not explicitly or comprehensively reference violations of ILO Conventions Nos 103, 135 or 151 in the body of the text and covered issues similar to a complaint introduced in 2016 in respect of the other Conventions. The CEACR had acknowledged with satisfaction the advances of Act No. 20.940, in force since 2017, and the labour reform with regard to the application in law and practice of ILO Conventions dealing with labour relations that were the subject of the complaint. She therefore considered that, similarly to 2016, the elements invoked in the complaint did not correspond to allegations whose examination was to be undertaken under article 26 of the ILO Constitution and which should be referred to a Commission of Inquiry. She supported the draft decision.
- 295. Speaking on behalf of a vast majority of countries from Latin America and the Caribbean**, a Government representative of Barbados said that the complaint dealt with issues that had already been debated and resolved by the ILO supervisory system, specifically when rejecting the complaint that had been filed against Chile in 2016. That fact had been highlighted in the report presented to the Governing Body at its 337th Session (October–November 2019).⁸ It was very important for the ILO and all its Members to protect the supervisory system. The appointment of a Commission of Inquiry should be resorted to when a Member State was accused of committing persistent and serious violations and had repeatedly refused to address them. The Chilean model of labour relations questioned in the complaint was far from the cases of notorious seriousness for which a Commission of Inquiry had been appointed in the

⁸ GB.337/INS/13/2.

past. Every State in the world consistently strove to make the periodic adjustments and improvements required by the world of work, and Chile was no exception. In the current challenging world, it was key that countries collaborated in implementing those improvements. GRULAC accordingly supported the draft decision.

- 296. Government representatives of the United States and the United Kingdom** said that the case should not be referred to a Commission of Inquiry and did not merit further consideration under article 26. Those issues that might require examination should be referred to the regular supervisory system. They supported the draft decision.

Decision

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

- (a) **decided not to refer the matter to a Commission of Inquiry and to close the procedure under article 26; and**
- (b) **invited the Government to continue reporting to the ILO regular supervisory system on measures taken to apply in law and practice the Conventions concerned.**

(GB.340/INS/15(Rev.1), paragraph 6)

16. Reports of the Committee on Freedom of Association

392nd Report of the Committee on Freedom of Association (GB.340/INS/16)

Addendum: Presentation of the Committee on Freedom of Association annual report for the year 2019 (GB.340/INS/16(Add.1))

- 298. Speaking on behalf of the Chairperson of the Committee on Freedom of Association**, a Government representative of Switzerland, member of the Committee, said that, like all Governing Body meetings, the Committee on Freedom of Association had met virtually. The Committee had before it 169 cases, 32 of which had been examined on their merits. Of those 32 cases, 23 were definitive reports and therefore did not call for further examination. The Committee was appreciative of Governments' spirit of cooperation and efforts to provide information amid the pandemic, as they had further improved the effectiveness of the Committee's work, allowing it to thoroughly examine the cases in full knowledge of the facts. For its next meeting, the Committee made an urgent appeal to the Governments of Belarus, El Salvador and Madagascar for their observations. The deadline for submission of additional observations by all Governments was 1 February 2021.
- 299.** The Committee had also examined the follow-up given to its recommendations in another 32 cases, of which 14 had been completed and closed. The Committee welcomed the progress made in a number of cases, including in Cases Nos 2708, 2700 and 3035 (Guatemala). In Cases Nos 2096 (Pakistan) and 3283 (Kazakhstan), the Committee forwarded the legislative aspects to the Committee of Experts.
- 300.** The Committee drew the attention of the Governing Body to three cases, owing to the seriousness and urgency of the matters dealt with therein. Case No. 2528 (Philippines) concerned allegations of murder, serious threats, continual harassment, intimidation and other forms of violence against trade union leaders, organizers, supporters and activists. The Committee had noted with regret that very few of those cases of violence

had resulted in convictions and that, despite the time that had elapsed since the murders, not all of the cases had yet been concluded. The Committee had once again urged the Government to make every effort to ensure swift investigation into all unresolved cases of murder of trade union leaders and members to ensure that the perpetrators were brought to justice, and to rapidly resolve all cases of harassment and intimidation.

- 301.** Case No. 3203 (Bangladesh) concerned allegations of systematic violations of freedom of association, including acts of violence against workers and the murder and torture of a trade unionist in 2012, anti-union discrimination and other acts of reprisal against trade unionists in several enterprises, arbitrary denial of trade union registration and lack of law enforcement. The Committee had urged the Government to provide information on all measures taken to investigate the specific and serious allegations of the involvement of the security forces in the ill-treatment and murder of a trade union organizer. The Committee expressed the firm expectation that the allegations of anti-union dismissals would be resolved immediately and that the allegations of physical violence against workers would be adequately addressed through judicial proceedings.
- 302.** Case No. 2508 (Islamic Republic of Iran) was a long-standing case that concerned allegations of acts of repression against the local trade union at a city bus company and the arrest and detention of several trade unionists. The Committee had once again urged the Government to ensure that workers in that company were free to choose the trade union they wished to join. The Committee had expressed the firm expectation that, with technical assistance from the ILO and in consultation with workers' and employers' representatives, Iranian legislation would be brought quickly into line with the principles of freedom of association, in particular by allowing trade union pluralism. The Committee had requested the Government to provide information on the outcome of the ongoing proceedings against 17 people in relation to a truck drivers' strike. The Committee had urged the Government to take all measures necessary to ensure no one was imprisoned for simply having organized or participated peacefully in a strike, and to continue its efforts to ensure that peaceful and legitimate trade union activities were not cause for criminal proceedings or sanctions and that any related prosecutions were re-examined immediately.
- 303.** Finally, she expressed the hope that the third annual report of the Committee on Freedom of Association for the year 2019 would support understanding of the functioning of the Committee and the challenges to freedom of association in the world of work.
- 304. The Employer Vice-Chairperson of the Committee** said that the Committee had met virtually due to the pressing need to give continuity to the functioning of the supervisory body after two of its meetings, in March and June 2020, had been cancelled. He underscored the substantial progress made by the Committee during its meeting, but emphasized that the virtual format had made progress slower and more difficult than usual, as it did not provide the opportunity for more in-depth discussion or the physical space for dialogue and negotiation that some cases required.
- 305.** He highlighted the significant number of cases before the Committee, which would be difficult to address efficiently if the Committee's next meeting were also held virtually. The high number of cases was partially due to the fact that some should not have been put before the Committee in the first place, either because they could have been resolved at the national level or because they went beyond the mandate of the Committee. Cases Nos 3344 (Brazil), 3216 (Colombia) 3292 (Costa Rica), 3215, 3318 and 3321 (El Salvador) and 3353 (Ireland) were examples of such cases. The Committee had

not addressed its working methods owing to the unusual format of its meeting. However, some methods, specifically admissibility criteria and the identification of areas of opportunity for improving the quality of reports, merited assessment at the Committee's next meeting in March 2021. The goal of the Employers' group was to ensure that the workings of the Committee were as efficient as possible.

- 306.** Finally, he thanked the Workers' group and the Governments for their openness and constructive dialogue. He trusted that the Committee's pending decisions could be taken at its next meeting in March 2021.
- 307. A Worker member of the Committee** expressed her thanks to those involved in the Committee's virtual session, although she noted that remote working was not conducive to the best discussions. The most troubling cases examined by the Committee over the previous year had related to restrictions on the personal freedom of trade unionists, and even threats to their lives. The relationship between human rights, civil liberties and workers' rights was fundamental to the work of the Organization.
- 308.** She drew attention to several of the most serious and urgent cases considered by the Committee, all of which raised concerns regarding the situation of the individuals concerned. Case No. 3203 related to alleged serious violations of the right to freedom of association in Bangladesh. An independent inquiry into the events related to the garment workers' strike in Ashulia in 2016 was required, along with regular comprehensive training for police and government officials. Case No. 2508 related to the Islamic Republic of Iran, including complaints of repression, violent attacks on workers' meetings and the denial of due process. The Committee urged the Government to lift any criminal charges and sanctions imposed on those engaging in peaceful and legitimate trade union activities.
- 309.** Case No. 2528 concerned unresolved cases of murder and violence against trade unionists in the Philippines. The Committee had previously urged the Government to investigate and prosecute those murders, abductions and enforced disappearances, but information on the progress made had not been forthcoming. Case No. 3184 related to large numbers of paralegals and workers' advisers who remained missing in China, and Case No. 3339 involved alleged rights violations in Zimbabwe following trade union protests against the rising cost of living. Legitimate trade union activity was not restricted to working conditions; rather, freedom of association applied to all actions relating to economic and social policy matters of direct concern to workers.
- 310.** She recommended that the Governing Body examine closely the Committee's report and drew attention to its annual report for the year 2019, which revealed an overall reduction in complaints over the previous five years.
- 311. Speaking on behalf of the Government group of the Committee**, which consisted of members appointed by the Governments of Japan, Lesotho, Iraq, Nigeria, Panama and Switzerland, a Government member from Nigeria said that Workers', Employers' and Government representatives had participated actively in the Committee's most recent session, which had been the first to be held virtually. All participants had demonstrated commitment to the session's fruitful discussions, which had taken place in an atmosphere of understanding and consensus. The success of the session had proved that the ILO supervisory system was fully functional and that difficult negotiations were possible, even virtually. The success of the session should encourage other tripartite meetings to be held remotely, rather than postponed.

Decisions

312. The Governing Body took note of the introduction to the Report of the Committee, contained in paragraphs 1–177, and adopted the recommendations made in paragraphs: 216 (Case No. 3210: Algeria); 234 (Case No. 3294: Argentina); 251 (Case No. 3302: Argentina); 265 (Case No. 3203: Bangladesh); 287 (Case No. 3263: Bangladesh); 298 (Case No. 3344: Brazil); 308 (Case No. 3183: Burundi); 405 (Case No. 3348: Canada); 445 (Case No. 3362: Canada); 495 (Case No. 3184: China); 511 (Case No. 3216: Colombia); 518 (Case No. 3230: Colombia); 544 (Case No. 3211: Costa Rica); 577 (Case No. 3292: Costa Rica); 591 (Case No. 3215: El Salvador); 607 (Case No. 3318: El Salvador); 620 (Case No. 3321: El Salvador); 633 (Case No. 2869: Guatemala); 654 (Case No. 3303: Guatemala); 677 (Case No. 2508: Islamic Republic of Iran); 727 (Case No. 3353: Ireland); 736 (Case No. 3081: Liberia); 772 (Case No. 3291: Mexico); 788 (Case No. 3357: Montenegro); 821 (Case No. 3343: Myanmar); 861 (Case No. 3372: Norway); 877 (Case No. 3200: Peru); 889 (Case No. 3224: Peru); 909 (Case No. 3239: Peru); 924 (Case No. 3345: Poland); 967 (Case No. 3341: Ukraine); 1022 (Case No. 3339: Zimbabwe), and adopted the 392nd Report of its Committee on Freedom of Association as a whole.

(GB.340/INS/16)

313. The Governing Body took note of the third annual report which covered the year 2019.

(GB.340/INS/16(Add.1), paragraph 4)

17. Report of the 83rd Session of the Board of the International Training Centre of the ILO (Turin Centre) (GB.340/INS/17)

314. The Employer spokesperson noted with appreciation the timely preparation of the report of the Board of the International Training Centre of the ILO (Turin Centre). Regarding the three scenarios that had been put forward by the Office to inform the Board's discussion on the operational model to be applied by the Turin Centre, he reiterated that a new "Scenario X", which combined components of the proposed scenarios, took into account inputs from the groups, and addressed concerns and challenges, would be ideal. The Centre's Management should consider and formally address all the questions posed by the constituents. He welcomed the Office's readiness to facilitate the consultative process in preparation for the extraordinary meeting of the Board, to be held in April 2021 with a view to developing the Strategic Plan for 2022–25 to be submitted for approval by the Board in October 2021. His group agreed on the importance of doing the "heavy lifting" straight after the current Governing Body session. Furthermore, it was ready to take on the challenge of ensuring the sustainability of the Centre and its relevance to the constituents' needs. Emphasizing the importance of working together, he said that his group would develop concrete proposals in the following weeks for the consideration of the Officers of the Board and the Office. He commended the efforts made by the Management and staff of the Centre to adapt to a very difficult situation that directly affected the traditional face-to-face training model.

315. The Worker spokesperson praised the Management and staff of the Turin Centre for their quick response to the challenges posed by the pandemic, thanked the Italian Government for its continuous and sustained support of the Centre, and invited other governments to engage in ensuring the financial sustainability of the Centre. She noted with satisfaction that the critical financial situation presented to the Officers in May 2020 had been overcome, thanks to the work and commitment of the Management and staff.

She also noted that the Centre had adapted its service portfolio during the pandemic, taking into account the ILO Institutional Capacity Development Strategy. Regarding the future of the Centre, she reiterated her group's commitment to engage in constructive and consensual discussions in order to set an adequate timeline for the rearrangement of the Centre and recalled the need to ensure the participation of the Staff Union of the Centre in the process. Recalling that the process to rearrange the Centre should have the needs of the constituents and the ILO agenda at its heart, she said that it was important to ensure that the nature and role of the Centre remained intact in its implementation.

- 316. Speaking on behalf of the Government group**, a Government representative of Paraguay noted with satisfaction that the Turin Centre had shown resilience and flexibility during the pandemic and that the critical financial situation of the Centre had improved dramatically. He reiterated that the second scenario seemed the most reasonable and could be developed into several alternative configurations. Although distance learning activities offered many benefits, the value of human exchanges and the collective nature of face-to-face learning were an important aspect of traditional onsite training that should be taken into consideration. The campus of the Centre was one of its most precious assets, and should continue to play a vital role in the years to come. The Centre should adapt to the current situation through the retraining of its staff, the improvement of its financial model and the expansion of its financial donor base. The issue of reform clearly required extensive consultations among ILO constituents, and his group was willing to engage in as many consultations as necessary to take a decision on the matter in October 2021. The Strategic Plan for 2022–25 and Programme and Budget for 2022–23 should reflect real tripartite consensus.
- 317. Speaking on behalf of ASPAG**, a Government representative of China acknowledged the crucial role of the Turin Centre in the implementation of the Centenary Declaration and the 2030 Agenda. The Centre's robust performance and remarkable results in its three performance pillars were commendable. His group noted with satisfaction that the Centre had strengthened its position as a globally competitive provider of IT-supported training and learning services, and encouraged it to continue to fulfil its important mandate. His group appreciated the Centre's effective measures in response to the pandemic and in particular the shift in its portfolio of capacity development services. A reform process should be undertaken to enable the Centre to adapt to the new circumstances, based on extensive consultations. However, given the Centre's important role, its vision and mission should remain unchanged, and any modification or adjustment of the business model should be based on a stable and sustainable development of the Centre. ASPAG was committed to engaging constructively in future discussions on that issue and called on all parties concerned to make joint efforts and take concrete measures to help the Centre remain fit for purpose, effective, transparent and accountable.
- 318. Speaking on behalf of IMEC**, a Government representative of Italy congratulated the Turin Centre for its central role in facilitating future of work transitions and in promoting decent work, in line with the Centenary Declaration and the 2030 Agenda. He commended the excellent results achieved by the Turin Centre during the biennium 2018–19 in terms of both the increased number of participants, through distance learning courses, and gender representation, since almost half of trainees had been women. The high rate of participants' satisfaction with the learning services of the Turin Centre was also welcomed. Noting that one third of all participants belonged to the ILO tripartite constituency, he encouraged the Management of the Centre to continue working to increase that proportion. On the financial side, he praised the budget surplus

of over €3 million and the introduction of cost-saving measures, as well as the increased revenues from online training. While a balanced budget had been achieved by the end of 2020, further measures needed to be taken in order to ensure the long-term financial stability of the Centre. He welcomed the External Auditor's opinion on both the 2018 and the 2019 financial statements, which confirmed the Centre's compliance with International Public Sector Accounting Standards, and he encouraged the Centre to act on the recommendations made in that regard in order to reinforce its accountability and transparency. He also welcomed the presentation of the external audit plan for 2020.

- 319.** With regard to the report on the future direction of the Centre, IMEC firmly believed that the COVID-19 pandemic had made the process of reforming the Centre necessary and not deferrable. The Centre's business model would need to adjust to a world that had already changed. However, that would have to occur without affecting the Centre's footprint in Turin. IMEC considered that the second of the three scenarios presented in the report was the most reasonable one, since it could be developed in different directions with due respect for all the legitimate concerns of the constituents. The reform process would also have to give due consideration to expanding the donor base beyond the current situation. He looked forward to taking a decision on that subject before the 109th Session (2021) of the International Labour Conference.
- 320. Speaking on behalf of the Africa group,** a Government representative of Rwanda commended the Board's initiative to engage with the constituents in discussions on the future direction of the Turin Centre. He noted that the Centre had improved its rate of product innovation: 14 new learning products had contributed to diversified learning modalities and had increased outreach. The Africa group was pleased to hear that the Centre had introduced cost-saving measures and had increased revenues from its online training services, and that it would achieve a balanced and reduced budget by year-end. Looking towards the Strategic Plan for 2022–25, the Africa group encouraged the Centre to make more use of technology and provide more training online, while stressing that the current circumstances of the COVID-19 pandemic should not divert the Centre from its core mission. The Centre should explore all possible means to remain financially viable.
- 321. Speaking on behalf of the EU and its Member States,** a Government representative of Germany said that North Macedonia, Montenegro, Serbia, Albania, Norway, and Georgia aligned themselves with the statement. She reiterated the statement made by the Government representative of Italy on behalf of IMEC.
- 322. A representative of the Director-General** (Director, Turin Centre) took note of the comments made and assured the Governing Body that the Turin Centre would follow the guidance of its Board and work together with all the parties concerned. He thanked the Board members for the constructive comments and important guidance provided during the session of the Board, and the Government of Italy for its long-term support of the Centre. He also thanked the Office for the support it had provided during the pandemic.

Decision

- 323. The Governing Body took note of the report of the 83rd Session of the Board of the International Training Centre of the ILO (Turin Centre) (27 October 2020).**

(GB.340/INS/17)

18. Report of the Director-General (GB.340/INS/18(Rev.1))

324. The Chairperson presented the document and proposed the Governing Body observe a minute of silence in memory of the former Governing Body members whose obituaries were included in the document. He then invited Governing Body members wishing to pay tribute to the memory of the deceased to do so in writing.

Decision

325. The Governing Body:

- (a) **took note of the information contained in documents GB.338/INS/15 and GB.340/INS/18(Rev.1) concerning progress in international labour legislation, internal administration, and publications and documents;**
- (b) **paid tribute to the memory of Ms Noemí Rial and noted that the Director-General had conveyed its condolences to the family of Ms Rial and to the Government of Argentina;**
- (c) **paid tribute to the memory of Mr Yoshikazu Tanaka and noted that the Director-General had conveyed its condolences to the family of Mr Tanaka and to the Japanese Trade Union Confederation and the International Trade Union Confederation (ITUC);**
- (d) **paid tribute to the memory of Mr Bryan Noakes and noted that the Director-General had conveyed its condolences to the family of Mr Noakes and to the Australian Chamber of Commerce and Industry and the International Organisation of Employers;**
- (e) **paid tribute to the memory of Mr Jan Sithole and invited the Director-General to convey its condolences to the family of Mr Sithole and to the Swaziland Federation of Trade Unions and the ITUC; and**
- (f) **paid tribute to the memory of Mr Qiyang Li and invited the Director-General to convey its condolences to the family of Mr Li and to the Government of China.**

(GB.340/INS/18(Rev.1), paragraph 15)

Summary of written statements concerning obituaries ⁹

Ms Noemí Rial

326. The Argentine General Confederation of Labour (CGT Argentina) paid tribute to Ms Noemí Rial, one of the most brilliant minds of labour relations at the national and international levels. As an educator in Labour Law and Social Security at the Law Faculty of the University of Buenos Aires, she left an indelible mark on students and colleagues alike. In the mid-1990s, she became the first woman lawyer of the Argentine General Confederation of Labour, and was a Worker representative at the ILO between 1995 and 2002.

327. She continued to represent Argentina at the ILO from 2003 until the end of her mandate in 2015 as Labour Secretary of the Ministry of Labour, Employment and Social Security. During that time, she was appointed Chairperson of the Committee on the Application of Standards on three occasions. At the ILO, she quickly gained widespread admiration

⁹ The complete text of each statement in the original language has been published on the [Governing Body's website](#).

for her work ethic, her untiring search for consensus among the actors of the world of work and for her unwavering defence of the international instruments governing labour relations.

- 328.** Noemí was not only a driving force behind the expansion of the rights of working women and men in Argentina, but was also held in high esteem by employers' representatives, who always respected her level-headed search for agreement and consensus, her transparency and her good faith.

Mr Yoshikazu Tanaka

- 329. The Japanese Trade Union Confederation** paid tribute to Mr Yoshikazu Tanaka, a Worker member of the Governing Body for nine years from 1978. He was Vice-Chairperson at the International Labour Conference when the world was facing political crisis and the threat of war, which had led to a tense atmosphere at the Conference. In those difficult circumstances, as Vice-Chairperson, his excellent leadership prevented political confrontation from surfacing in the meeting. Mr Tanaka's contribution to protecting and developing fundamental workers' rights shall long be remembered.
- 330. The Government of Japan** expressed its profound sorrow over the passing of Mr Yoshikazu Tanaka. Mr Tanaka had led trade union organization activities in Japan, and in 1978 began a nine-year period as a Worker member of the Governing Body. During the economic recession resulting from the oil crisis, with high unemployment and increased poverty worldwide, he advocated the effectiveness of social policies which remain relevant to this day.
- 331.** In 1982, at a time of conflict on the world stage, Mr Tanaka was appointed Worker Vice-President of the International Labour Conference, and resolutely ensured the smooth conduct of the proceedings, earning him the nickname "Mr Samurai". In addition, he twice held the role of Vice-Chairperson of the Asian Regional Meeting. The Japanese Government expressed grateful appreciation for the numerous achievements of Mr Tanaka during his lifetime, and expressed deepest regret over his passing.

Mr Bryan Noakes

- 332. The Australian Chamber of Commerce and Industry (ACCI)** paid tribute to Bryan Noakes, Order of Australia (AO). Following work early in his career on the nation-building Snowy Hydroelectric project, Bryan led national advocacy, strategy and negotiations for Australian employers for 40 years, firstly with the Australian Council of Employer Federations, through the formation of the Confederation of Australian Industry in 1977, and then as part of the ACCI network from 1992.
- 333.** Amid major reforms in Australian industrial relations in the 1980s and 1990s following economic and industrial tumult in the 1970s, Bryan developed close relationships with prime ministers and industrial relations ministers on both sides of politics, and with the leaders of the Australian trade union movement. He was a proud and passionate member of the ILO Governing Body and led Australian employer delegations to numerous sessions of the International Labour Conference. He was recognized for his significant work protecting the fundamental rights of both employers and trade unionists throughout the world through the Committee on Freedom of Association. Bryan was also instrumental in the creation of an employer voice for the Asia and the Pacific region, through the Confederation of Asia-Pacific Employers.
- 334.** In recognition of his domestic and international service to industrial relations, Bryan was awarded the AO in 2003. Bryan was a significant, respected and widely liked figure

across the political and industrial divide in Australia, who worked tirelessly for decades to represent the business community and the national interest. Throughout his life Bryan remained a profound thinker and analyst on Australian and global industrial relations, and was an important source of counsel, mentorship, support and friendship to those who came after him at the ACCI and throughout the Australian employer movement.

Mr Jan Sithole

- 335. The Trade Union Congress of Swaziland (TUCOSWA)** paid tribute to Jan Jabulani ("JJ") S. Sithole. He began his career at the Usutu Pulp Company in Eswatini, where after successfully defending himself in a labour issue, he began representing colleagues. He went on to represent all workers within the agricultural belt and later all workers in the country. In the late 1970s, he, together with other leaders, was tasked with establishing trade unions in various sectors.
- 336.** JJ was one of the pioneers who advocated for the enactment of the Employment Act 1980. Following the changes in South Africa in the mid-1990s, as General Secretary of the Swaziland Federation of Trade Unions (SFTU), he relentlessly fought for the rights of workers, resulting in major industrial action, a list of 27 demands and the formalization of the May Workers' Day holiday. He later formed the Swazi Democratic Party (SWADEPA) and was elected as a Member of Parliament. Among other things, he was instrumental in bringing about the amendment of the notorious Suppression of Terrorism Act.
- 337.** Throughout his life, JJ was a bold, unrelenting fighter for justice for all humanity, even when he was met with violence and imprisonment. He believed in dialogue and used it to great effect, and he achieved many milestones for workers, the union movement and politics.

Mr Qiyang Li

- 338. The All-China Federation of Trade Unions (ACFTU)** paid tribute to the memory of Mr Qiyang Li, former Government member of the Governing Body and Vice-Minister of Labour and Social Security of China. Mr Li had been committed to promoting China's employment and social security policies, enhancing tripartite cooperation and social dialogue, and strengthening communication with social partners including the ACFTU. He had worked very hard with social partners to promote the well-being of workers.
- 339.** The ACFTU also paid tribute to the memory of Mr Yoshikazu Tanaka, former Worker Member of the Governing Body and Vice-President of the Japanese Trade Union Confederation and of Mr. Jan Sithole, former Worker member of the Governing Body and General Secretary of the Swaziland Federation of Trade Unions (SFTU) for their contributions to improving the welfare of workers.

18.1. First supplementary report: Update on the status of ratification of the 1986 Instrument for the Amendment of the Constitution of the ILO and follow-up to paragraph 3 of the resolution on the ILO Centenary Declaration for the Future of Work (GB.340/INS/18/1)

- 340.** Following consultations in September and October 2020, the Screening Group agreed to put the item forward for a decision by correspondence on 22 October 2020.
- 341.** The decision was approved by consensus and announced to all Governing Body members by a communication of 30 October 2020.

Decision

342. The Governing Body decided by correspondence that:

- (a) the tripartite working group on full, equal and democratic participation in the ILO's tripartite governance shall be mandated to discuss, develop and present proposals to the Governing Body on the full, equal and democratic participation of the ILO's constituents in the Organization's tripartite governance by ensuring a fair representation of all regions and establishing the principle of equality among Member States;
- (b) the tripartite working group shall be composed of 14 Government members from each of the four regions and the Employers' and Workers' group secretariats, while all interested governments may attend and participate in the discussions;
- (c) the Government members of the tripartite working group shall nominate one of them as Chairperson of the working group and, in case of no agreement on a single Chairperson, two Government members shall be nominated to co-chair the working group; and
- (d) the tripartite working group shall hold two meetings prior to its 341st Session (March 2021) and submit its first report to that session.

(GB.340/INS/18/1, paragraph 19)

Summary of written comments received during the consideration of the item by correspondence ¹⁰

- 343. The Workers' group** supported ratification of the 1986 Instrument for the Amendment of the Constitution of the ILO (1986 Amendment), which would ensure democracy in the work and composition of the Organization's governing bodies. Noting the need for 125 Member States to ratify or accept the 1986 Amendment for it to enter into force, the group welcomed the ratifications by Albania, Djibouti and Portugal and the steps taken by Peru, Spain and Yemen. The group called on the Members of chief industrial importance, and Member States that had begun the process, to ratify the 1986 Amendment. The Office should address the concerns of the Government of Bulgaria regarding the reference to "socialist States of Eastern Europe". Expressing regret that only four Member States had responded to the Director-General's letter, the group reiterated its call to governments to provide the Office with the explanations requested to allow it to identify and remedy any obstacles to ratification.
- 344.** The Workers' group had taken note of the consultations held with governments at the 337th Session of the Governing Body on the composition of the tripartite working group. Although workers would not oppose the decision to appoint 14 governments from each region, with other governments attending and taking part in the discussions, it expressed hope that the size of the governmental representation would not slow down the making of decisions aiming at the fulfilment of the commitments undertaken in the ILO Centenary Declaration for the Future of Work and the related resolution.
- 345.** Recalling its support for the Office's definition of the working group's mandate proposed at the 337th Session, the Workers' group also expressed support for the proposed

¹⁰ The complete text of each comment in the original language is available on the [Governing Body's web page](#), together with the decision.

addition contained in paragraph 12, but reiterated that the top priority should be the prompt ratification of the 1986 Amendment, to honour the commitments made in the Centenary Declaration. The group also supported the proposals contained in paragraphs 14 and 15 on the duration of the mandate and the nomination of the Chairperson of the working group.

- 346. The Africa group** noted that three new ratifications had been registered, increasing the number to 113. It encouraged countries that had initiated ratification to complete the process and urged those yet to ratify to do so in order to democratize the functioning and composition of the Governing Body in line with the call of the Centenary Conference. It regretted that only four Member States had replied to the Director-General's letter.
- 347.** The group was encouraged by the decision to establish a tripartite working group to serve as a platform for focused dialogue and to develop proposals on full, equal and democratic participation in the ILO's tripartite governance. It looked forward to the active participation of social partners and Members yet to ratify, and was confident that the commitment of Members of chief industrial importance would be decisive in realizing the equitable representation of States in the Governing Body.
- 348.** The Africa group thanked the Office for its sustained promotion of the ratification of the 1986 Amendment and requested it to redouble its efforts in that regard.

18.2. Second supplementary report: Report of the Technical Meeting on Achieving Decent Work in Global Supply Chains (Geneva, 25–28 February 2020) (GB.340/INS/18/2)

(The document under this item was submitted for information only.)

18.3. Third Supplementary Report: Follow-up to Governing Body decisions (GB.340/INS/18/3)

Decision

- 349. The Governing Body, by correspondence, requested the Office to prepare, for its 343rd Session (October–November 2021), a supplementary report on the follow-up to the decisions adopted since November 2019.**

(GB.340/INS/18/3, paragraph 5)

18.4. Fourth Supplementary Report: Documents submitted for information only (GB.340/INS/18/4)

Decision

- 350. The Governing Body took note, by correspondence, of the information contained in the following documents:**

- **Report of the Committee of Experts on the Application of Conventions and Recommendations (Geneva, 20 November–7 December 2019) (GB.338/INS/INF/1)**
- **Approved symposia, seminars, workshops and similar meetings (GB.338/INS/INF/2)**

- **Report on the status of pending representations submitted under article 24 of the ILO Constitution** ([GB.338/INS/INF/3](#))
 - **Programme and Budget for 2020–21: Collection of contributions from 1 January 2020 to date** ([GB.338/PFA/INF/1](#))
 - **Progress report on the implementation of the Information Technology Strategy 2018–21** ([GB.338/PFA/INF/2](#))
 - **External audit plan** ([GB.338/PFA/INF/3](#))
 - **Follow-up to the report of the Chief Internal Auditor for the year ended 31 December 2018** ([GB.338/PFA/INF/4](#))
 - **Composition and structure of the ILO staff** ([GB.338/PFA/INF/5](#))
 - **Decisions of the United Nations General Assembly on the report of the International Civil Service Commission for 2019** ([GB.338/PFA/INF/6](#))
 - **Decisions of the United Nations General Assembly on the report of the 66th Session of the United Nations Joint Staff Pension Board (2019)** ([GB.338/PFA/INF/7](#))
 - **Follow-up to the resolution on the ILO Centenary Declaration for the Future of Work: Proposals for including safe and healthy working conditions in the ILO's framework of fundamental principles and rights at work** ([GB.340/INS/4](#))
 - **Update on the United Nations reform** ([GB.340/INS/6](#))
 - **Report of the Director-General – Second Supplementary Report: Report of the Technical Meeting on Achieving Decent Work in Global Supply Chains (Geneva, 25–28 February 2020)** ([GB.340/INS/18/2](#))
 - **Decent work and productivity** ([GB.340/POL/3](#))
 - **Update on the Human Resources Strategy 2018–21** ([GB.340/PFA/12](#))
 - **Approved symposia, seminars, workshops and similar meetings** ([GB.340/INS/INF/1](#))
 - **Evaluation of the plan of action to give effect to the conclusions concerning the second recurrent discussion on fundamental principles and rights at work, adopted by the International Labour Conference in June 2017** ([GB.340/INS/INF/2](#))
 - **Report on the status of pending representations submitted under article 24 of the ILO Constitution** ([GB.340/INS/INF/3](#))
 - **Programme and Budget for 2020–21: Regular budget account and Working Capital Fund** ([GB.340/PFA/INF/1](#))
 - **Overview of ILO accommodation** ([GB.340/PFA/INF/2](#))
- ([GB.340/INS/18/4](#), paragraph 4)

18.5. Fifth Supplementary Report: Inclusion of the Philippines in the list to be established under Article 5, paragraph 6 of the Seafarers' Identity Documents Convention (Revised), 2003, as amended (No. 185) (GB.340/INS/18/5)

Decision

351. Noting the positive conclusions of the independent evaluation report submitted by the Philippines in accordance with Article 5, paragraph 4, of the Seafarers' Identity Documents Convention (Revised), 2003, as amended (No. 185), of the Office's assessment and of the report of the Review Group established under arrangements adopted in accordance with Article 5, paragraph 6, of the Convention, the Governing Body approved by correspondence the inclusion of the Philippines as the first ratifying Member to be listed as fully meeting the minimum requirements referred to in Article 5, paragraph 1, of the Convention, as amended in 2016.

(GB.340/INS/18/5, paragraph 6)

Summary of the statement received during the consideration of the item by correspondence¹¹

352. Bulgaria informed the Office that it was abstaining from voting because it was not a State party to Convention No. 185.

18.6. Sixth Supplementary Report: The response of the International Labour Office to the COVID-19 pandemic (GB.340/INS/18/6)

353. The Worker spokesperson said that the ILO Global Summit on COVID-19 and the World of Work, the ILO Monitor and the COVID-19 Information Hub all highlighted the key role that the ILO had to play at a time when the world of work had been hit extremely hard by the pandemic. It was no coincidence that the Centenary Declaration called on the Organization to include occupational safety and health (OSH) in its framework of fundamental rights. Regulation gaps had become more visible than ever. The COVID-19 crisis had made the essential role of proper protection of workers against occupational health and safety risks clear, including COVID-19 related hazards. At its next session, in March 2021, the Governing Body would have the opportunity and the obligation to take the necessary decisions towards recognizing OSH as a fundamental right. It should then also give effect to the recommendations of the Standards Review Mechanism and place protection against biological hazards as soon as possible on the agenda of the International Labour Conference. Better protection should also be afforded to platform workers, a need that had been identified in the Centenary Declaration.

354. The Workers' group commended those governments that had taken extraordinary social protection measures to support workers, those that had declared COVID-19 an occupational disease, and those that had taken steps to regulate telework, even in the midst of the pandemic. She welcomed the support provided by the Office for bipartite discussions, for example in the garment sector, and thanked the experts of the Sectoral Policies Department for providing a large number of useful briefs and tools in a very short time.

¹¹ The complete text of the comment in the original language is webposted on the same [web page](#) as the decision.

355. She took note of the Director-General's initiative of focusing on four areas of work for tackling the economic and social impact of the pandemic. Many of the actions under those four pillars included work with other UN agencies and international financial institutions. It was regrettable that in some cases, fundamental rights and a rights-based approach had been diluted; they should be explicitly highlighted in all the tools and exchanges with other agencies. A "build back better" initiative could only lead to a better future of work if it was based on human and labour rights.
356. The continued work of the Committee of Experts on the Application of Conventions and Recommendations, the Committee on Freedom of Association and article 24 ad hoc committees through virtual meetings was welcomed. Unfortunately, violations of labour rights did not stop with the pandemic, and the proper functioning of the ILO's normative and supervisory system was therefore as crucial as ever.
357. The efforts made by ACTRAV and other departments through the digitalization of training events, exchanges and webinars had been crucial to maintain contact and communication, but experience showed that face-to-face exchanges were also indispensable. While technology allowed some business continuity, many other aspects (such as transfer of technology, access to energy and connectivity, and data protection) should also be taken into consideration. More work needed to be done on the social and solidarity economy.
358. She thanked those Member States who had ratified Conventions despite the disruptions caused by the pandemic, with the result that Convention No. 190 would enter into force on 25 June 2021 while universal ratification of the Worst Forms of Child Labour Convention, 1999 (No. 182) had been achieved. She also thanked the Office for having put the need for universal social protection at the heart of its messages and in its communication with other UN agencies.
359. Lastly, it was regrettable that the rights-based dimension, the precarious nature of jobs, and macroeconomic policies aimed at placing decent work at the centre of economic policies were not addressed in the Framework for Action between United Nations Development Programme (UNDP) and the ILO for 2020 and beyond. It was also unclear as to how the seven key areas of collaboration in that Framework would interact at the country-level with the priorities identified in the programme and budget, whose purpose was to ensure alignment with the Centenary Declaration. On the other hand, she welcomed the proposal to bring the budget implications of the measures taken in relation to COVID-19 to the attention of the Governing Body in March 2021. The Centenary Declaration also provided enough guidance on where potential savings could be reallocated. Her group supported the draft decision.
360. **The Employer spokesperson** said that the COVID-19 pandemic posed the greatest challenge to the world since the Second World War and represented the ILO's first major test in its second century given the catastrophic consequences for the world of work. He commended the Office on its rapid response and management since the global outbreak of COVID-19 in March 2020. He highlighted in particular the ILO Global Summit on COVID-19 and the World of Work, at which the ILO had demonstrated that it could play a key role in the sustainable response to the crisis, and the ILO Monitor, a publication that had been cited by major international stakeholders. However, later issues of the ILO Monitor had not provided the valuable information on the impact of the pandemic on businesses that had been present in its second and third editions, and should also have contained the assessments of the impact of country policy on business resilience that had been published on the COVID-19 Information Hub as the crisis worsened. Data on the pandemic's impact was crucial to the targeting of interventions to the sectors that

most needed support. The devastating impact of COVID-19 on the private sector should be faced head-on and the detail of policies should be scrutinized.

- 361.** He recognized the crucial activities that the Office had undertaken to provide immediate support to employers' organizations during the crisis through ACT/EMP and the collaborative efforts carried out by the Office and social partners. The outcomes of the global survey jointly conducted by the IOE and ACT/EMP on the impact of the pandemic on employer and business membership organizations would help to assess the challenges faced by those organizations, and the COVID-19: Action in the Global Garment Industry call to action was helping to mobilize funds to ensure business continuity and income for workers and laying the foundations for sustainable social protection schemes.
- 362.** The Governing Body had not endorsed the four-pillar ILO policy framework for tackling the economic and social impact of the COVID-19 pandemic, which blurred the boundaries set by the four strategic objectives of the Decent Work Agenda, and constituents had not been consulted during its development. The ILO's work, including its pandemic response, should continue to be guided by the letter and spirit of the ILO Centenary Declaration. The Office should prioritize quality over quantity in its pandemic response activities and provide practical, useful support that could be adapted easily by constituents. Good governance should not be bypassed in favour of rapid action. The effectiveness and coherence of critical policy actions hinged on the due consideration of constituent views.
- 363.** Although the Office had provided a wide range of activities, documents and support, the Employers' group had not been consulted by the Sectoral Policies Department in the formulation of the 17 sectoral briefs in spite of the Office's obligation to consult the IOE before involving sectoral employer organizations. The Office should also promptly provide constituents with documents on the production of knowledge products on business continuity and employment retention; the prevention of the expansion of the informal economy; the restoration and building of resilient, enabling business environments after the crisis; and the promotion and development of sustainable enterprises, productivity and innovation.
- 364.** The Office should create dedicated knowledge products to address constituents' urgent priorities and needs, proposing short-, medium- and long-term actions to respond to the different phases of the crisis. The Office had an important role to play in promoting worker protection and OSH measures to restrict workplace transmission during the crisis, and should play a bigger role in COVID-19 health and safety workplace policies by reinforcing messages from public health authorities, raising awareness of the coronavirus and anticipating preventive measures.
- 365.** Many ILO activities would have benefited from enhanced cooperation with other international organizations such as the World Trade Organization (WTO), the International Monetary Fund (IMF) and the World Bank. The Office should also ensure that resources were used efficiently by avoiding duplication and maintaining a coordinated, coherent approach across ILO departments and work done at headquarters and in the field. All ILO support should respect national realities. The Employers' group supported the draft decision.
- 366. Speaking on behalf of the Government group,** a Government representative of Panama welcomed the report and expressed his appreciation for the Office's pandemic response efforts and for the leadership assumed by the Director-General and his staff during the crisis. Noting that Workers' and Employers' groups had raised some very valid

points, he invited the Director-General to apply the lessons learned from the first phase of the pandemic throughout the rest of the crisis and to continue to play a leading role during the recovery phase. The Office could count on the support of the Government group, which would work with the Employers' and Workers' groups to build a better world after the crisis.

- 367. Speaking on behalf of the Africa group**, a Government representative of Morocco noted the various activities carried out by the Office in response to COVID-19. The pandemic had confirmed the importance of the ILO's tripartite mandate within the United Nations (UN) system. The Office had strengthened relationships with constituents and provided a platform for dialogue and consultation, while maintaining best governance practice. His group welcomed the regular publication of data and statistics; the number of hours of work lost was an important reference for constituents and other international organizations when developing recovery strategies. The implementation of the policy framework was also of note.
- 368.** Commending steps taken in responding to COVID-19, he said that the pandemic also provided an opportunity to review existing approaches to policy, legislation and production. He encouraged the Office to redouble its efforts to complete the many technical cooperation programmes under way in his region and asked whether the pandemic would affect the delivery of those programmes. The pandemic would have an impact on national economies and governments' ability to implement the response measures set out in the policy framework. The ILO should safeguard the rights of workers experiencing new ways of working, such as teleworking.
- 369.** The ILO should continue to support the States worst affected by the pandemic in implementing new social protection systems and carrying out labour inspections to ensure occupational safety and health. The Africa group supported the draft decision.
- 370. Speaking on behalf of GRULAC**, a Government representative of Barbados said that, in the face of challenges to combat high levels of unemployment and provide safe and decent work, the ILO's response to mitigate the socio-economic impact of the pandemic was commendable.
- 371.** GRULAC welcomed the publication of the ILO Monitor, which facilitated assessment and guided preparedness. The Global Summit had facilitated knowledge sharing, particularly concerning workforce retooling to ensure job sustainability. Policies and measures must be responsive and ensure opportunities for all in the world of work.
- 372.** GRULAC welcomed the structure of the policy framework, designed on the foundation of international labour standards, and the support provided by the Office for its implementation at the country and regional levels. The Office should ensure that the policy framework was effectively mainstreamed into the ILO's Strategic Plan for 2022–25 and the Programme and Budget for 2022–23. GRULAC supported the draft decision.
- 373. Speaking on behalf of ASPAG**, a Government representative of Australia acknowledged the swift response of the ILO and its constituents and the agility of the ILO to continue providing assistance and support in the face of the socio-economic impacts of the COVID-19 pandemic, which would disproportionately affect population groups most vulnerable to adverse labour market outcomes.
- 374.** ASPAG acknowledged the creation of a knowledge exchange network to share lessons learned, best practice and expertise, and said that the policy framework would help Member States to formulate policies to build back better. The COVID-19 response should be informed by international labour standards, the ILO Declaration on Fundamental

Principles and Rights at Work, and a culture of workplace cooperation and social dialogue, at all levels. The Office should strengthen its partnerships with specialized agencies and multilateral organizations, and develop new ones, to protect workers and support enterprises.

- 375.** Recognizing that the pandemic had had an impact on the delivery of ILO programmes, ASPAG asked the Office to provide details in that regard, and any budgetary implications, to the 341st Session of the Governing Body. The ILO must continue to learn from its current responses to inform the future, and maintain its central role in COVID-19 response. ASPAG supported the draft decision.
- 376. Speaking on behalf of IMEC,** a Government representative of Switzerland said that international cooperation was essential to address the COVID-19 pandemic and its socio-economic consequences. The report was a testament to the ILO's rapid response, but should also form the basis for reflection and learning. The pandemic had proven the importance of knowledge exchange mechanisms and the ILO's role therein. The sectoral briefs had supported impact assessment and provided information on policy responses and good practices. The policy framework helped constituents to understand challenges and possible interventions, and develop targeted and coherent measures. While international labour standards served as a foundation to all four pillars of the framework, the fundamental principles and rights at work were particularly relevant to Pillar 3.
- 377.** IMEC welcomed the support given to constituents to mitigate the impact of COVID-19. The ILO must find practical, human-centred approaches to social protection in the informal economy. Noting the increased use of technology to deliver services, IMEC asked how such experiences could inform best practices and increase the effectiveness of future service delivery. It acknowledged the ILO's collaboration with its partners; future strategic approaches should reflect the importance of cross-sectoral connections for achieving comprehensive, effective and efficient responses.
- 378.** The Office should prepare an overview of the impact of the pandemic on the policy outcomes of the Programme and Budget for 2020–21 and incorporate the comments made during the current session into the Programme and Budget proposals for 2022–23. It should share its lessons learned from the pandemic, particularly regarding trends affecting the future of work. IMEC supported the draft decision.
- 379. Speaking on behalf of the EU and its Member States,** a Government representative of Germany said that North Macedonia, Montenegro, Serbia, Albania, Norway, the Republic of Moldova, and Armenia aligned themselves with her statement. She aligned her group with the statement made on behalf of IMEC.
- 380.** She welcomed the overview of the ILO's response to the unprecedented challenges facing the world of work, and the Office's ongoing work to support its members in COVID-19 response and recovery. She welcomed the knowledge products provided by the Office, and the focus on those hit hardest by the pandemic. However, there was a need for measures to mitigate the damage wrought on the whole global community, not just the most vulnerable groups. The ILO's work had saved jobs and livelihoods, but also sought to design a fair and inclusive recovery, addressing the green and digital transitions.
- 381.** Despite dire consequences, the pandemic had accelerated innovation and stimulated cooperation between the ILO and various partner organizations. The Office should reflect on the lessons it had learned and continue its innovative approach. The EU supported the draft decision.

- 382. Speaking on behalf of ASEAN**, a Government representative of Thailand said that reliable information was a key factor in COVID-19 response, and welcomed the ILO Monitor and sectoral briefs. He noted the Global Summit at which Member States had shared challenges and best practices in mitigating the impact of the pandemic on workers and their families and communities. That summit had demonstrated the essential nature of international cooperation.
- 383.** He outlined response measures taken in his region, including the adoption of the Declaration of the Special ASEAN Summit on Coronavirus Disease 2019, the Special Meeting of ASEAN Labour Ministers on Response to the Impact of COVID-19 on Labour and Employment, and the development of a regional comprehensive recovery framework. Those measures would support livelihoods, safeguard labour rights and facilitate access to essential healthcare services for workers infected with COVID-19. ASEAN reaffirmed its commitment in that regard.
- 384. A Government representative of the United Kingdom** noted the examples of active country-level support indicated in the report. She commended the ILO Monitor, highlighting the need for a high-level, authoritative and employment-focused assessment of the impact of the pandemic. She encouraged the Office to continue producing those assessments quarterly. She asked how the ILO was working with the World Bank and the IMF to leverage funding, as lending and grants from those organizations had been a critical component of the international community's response. The ILO should provide technical support to improve data collection in developing countries to facilitate the design of effective evidence-based employment policies.
- 385. A Government representative of Bangladesh** said that the impact of the pandemic on the labour market was a global concern. He welcomed the ILO's timely initiatives to provide impact assessments and develop tools and response strategies, and the Global Summit, which had facilitated a useful discussion on the future of work. The policy framework would contribute to tackling the socio-economic impacts of the pandemic, but the ILO must support low- and middle-income countries to ensure that policy responses were inclusive and sustainable.
- 386.** In Bangladesh, having identified the challenges facing the financial sector and the labour market, the Government had allocated a stimulus package to support export industries and had provided working capital for small- and medium-sized enterprises, regeneration loans, interest relief, refinancing schemes, insurance for healthcare workers, and support for migrant workers who had to return home.
- 387.** Recognizing the ILO's response to COVID-19 so far, he said that it must continue to roll out projects for low- and middle-income countries, including in partnership with the UN COVID-19 Response and Recovery Fund. More attention should be paid to migrant workers, irrespective of their status, to ensure they kept their jobs. The ILO should help States to address youth unemployment, including through skills development and training. It should also complement Member States' efforts to address the constraints faced by small- and medium-sized enterprises and thus create jobs. It should continue to promote ethical and responsible business behaviour. Cooperation with other relevant organizations would facilitate resilient and sustainable social and economic recovery.
- 388. A representative of the Director-General** (Deputy Director-General for Policy (DDG/P)) thanked constituents for their positive comments. In response to questions about the policy framework, she assured constituents that the Office, drawing on previous experience, had reacted quickly to the pandemic by proposing specific areas for immediate policy responses focused on protecting workers and their families from the

pandemic and alleviating massive losses in jobs, income and enterprises. Up-to-date international labour standards and social dialogue provided the foundation for inclusive and sustainable policy responses under the four pillars presented in document GB.340/INS/18/6. The framework had greatly enhanced the visibility of the ILO and had contributed to placing decent work at the centre of the response to the pandemic. It had also been a solid basis for organizing and coordinating the Office's work, particularly responses to requests for technical assistance. She underscored that the framework had been subject to constant review and improvement in line with the Office's priority of tackling the evolving situation of the pandemic.

- 389.** Based on the lessons learned thus far, the Office's position was that: policy interventions must be maintained at the necessary scale and made increasingly effective and efficient; the stimulus gap must be bridged in emerging and developing countries, which required greater international solidarity and more effective stimulus measures; tailored support measures for vulnerable and hard-hit groups, including women, young people and informal workers, must be a priority policy; and social dialogue must continue to be utilized as an effective policy response to the crisis. She noted a particular instance of the Office's innovative and nimble approach, whereby the statistical and research teams used non-traditional sources of data to track the effects of the pandemic when official sources were unavailable.
- 390.** In response to the Workers' request for clarification on the UNDP–ILO global Framework for Action, she said that the overall objective of the new framework was to bring together the comparative advantages of the UNDP and the ILO in the context of COVID-19. The Office's approach and contribution would be based on the core mandate and activities of the ILO, international labour standards, social dialogue and tripartism, and would be particularly evident in priority area 4 on social dialogue. In response to the points made regarding the precarious nature of jobs and having stronger macroeconomic policies to promote decent work, she said that those issues would be covered under priority area 2. Cooperation with international financial institutions in the consideration of macroeconomic policies would be critical. Work on the framework would be an integral part of the current planning and programming processes and would not lead to any programming or reporting burdens. Finally, she said that ACT/EMP and ACTRAV had been consulted on all online knowledge products related to COVID-19, including all sectoral briefs.
- 391. A representative of the Director-General** (Regional Director for Africa) said that the work being done to respond to COVID-19 in Africa was based on the Implementation Plan of the Abidjan Declaration – Advancing Social Justice: Shaping the future of work in Africa; which was developed in collaboration with the tripartite constituents to also address the impacts of COVID-19. The Regional Office had collaborated with the African Union to organize a forum for representatives of African Governments for discussions alongside the social partners on effective responses to COVID-19 anchored in the framework. The programmes developed helped the Office to identify where targeted interventions were needed. Partnerships with international financial institutions were considered crucial. As part of its partnerships, the Regional Office had agreed with the World Bank to foster policy coherence through joint programmes, joint messaging and advocacy as well as joint knowledge products. They had also agreed to work together on areas like social protection in a way that will foster collaboration between their respective partners. The Regional Office was working with the World Bank and other UN partners to help promote the development, humanitarian and peace nexus, specifically to support Member States to use cash transfers in addressing short-term concerns, while also strengthening sustainable, long-term social protection systems. The Regional Office was

also working with the UNDP to develop knowledge products that helped to identify where targeted responses were required and to access joint UN funding initiatives. Many countries in Africa were benefiting from the Multi-Partner Trust Fund, particularly in the area of social protection. The Regional Office had been able to nimbly make the necessary adjustments to ongoing programmes and mobilize additional resources to support Member States. She appreciated the willingness of development partners to engage on priority issues such as social protection and for their flexibility in helping the region to address the impacts of the COVID-19 pandemic in an agile manner.

- 392. The Director-General** thanked constituents for their comments, advice and guidance, which would be taken into account by the Office. He expressed particular appreciation for the recognition of the Office's swift and agile response to the needs of its constituents in the context of the COVID-19 pandemic. The ILO Monitor: COVID-19 and the world of work had been a great success through its major contribution to analysis of the impact of the pandemic and its role as a platform for visibility and advocacy. He welcomed the positive response to the policy framework.
- 393.** In response to the Employers' comment, he recognized that the framework had not been adopted by any ILO decision-making body, but recalled that no decision-making body had been able to convene and that the framework had been necessary, as pointed out by several constituents. He emphasized that the Office had been intensively pursuing and deepening all its partnerships. The engagement and interest of its partners demonstrated that the ILO was playing an important role in the COVID-19 pandemic response. He noted that the notion of better cooperation, coherence and partnership across the UN system must be an inherent part of discussions on the human-centred response policy initiative (GB.340/HL/2). He reassured constituents that the implications for the delivery of the Programme and Budget for 2020–21 would be examined in March 2021.
- 394. The Worker spokesperson** emphasized that the Workers' group strongly supported the work the ILO had done during the COVID-19 pandemic and complimented the Office and its staff members. The Workers' group thanked the Office for providing clarification on the group's query.
- 395. The Employer spokesperson** emphasized that the discussions held during the ILO Global Summit on COVID-19 and the World of Work, as constructive as they had been, had not been intended to constitute a launchpad for changing governance at the ILO. The Officers of the Governing Body had never been notified that any framework other than that of the Centenary Declaration had been contemplated and, if that had been the case, the Officers should have been consulted. The International Organisation of Employers must also be consulted on all issues.

Decision

- 396. The Governing Body took note of the information provided in document GB.340/INS/18/6 and requested the Director-General to:**
- (a) **take into account the guidance provided in steering the Office actions and response to the ongoing COVID-19 crisis; and**
 - (b) **communicate further details regarding the implications of COVID-19 for delivery of the Programme and Budget for 2020–21 at its 341st Session (March 2021).**

(GB.340/INS/18/6, paragraph 77)

18.7. Seventh supplementary report: Appointment of a Deputy Director-General and an Assistant Director-General (GB.340/INS/18/7)

- 397. The spokesperson of the Government group** expressed his group's deep gratitude and appreciation for the work of the former Deputy Director-General for Policy, Ms Deborah Greenfield, who over the last three years had worked tirelessly to advocate for the ILO within the UN system and chart a clear course for the ILO on challenging issues related to the world of work. Her thoughtful and innovative solutions allowed the Governing Body to find consensus on difficult topics. Furthermore, her contribution to the ILO Centenary and her work in the Conference committee on violence and harassment would be remembered. Lastly, the contribution that her appointment had made towards gender parity among ILO senior staff was not to be overlooked. The speaker then welcomed the new Deputy Director-General, Ms Martha Newton, whose reputation as the Head of Delegation for the United States to the ILO preceded her. He referred to her expertise on international labour policy, extensive experience, impartial and even-handed character, and her negotiation skills as some of her many qualities.
- 398. Speaking on behalf of ASPAG**, the Government representative of Japan congratulated the new Regional Director for Asia and the Pacific. He referred to the crucial role she had previously played within the Japanese Government, in particular on gender-issues, international labour affairs and as a government representative at the ILO's Governing Body. The Asia-Pacific region expected her to have a leading role towards building back better after the COVID-19 crisis and looked forward to working with her at the next Asia and the Pacific regional meeting, where the group hoped to discuss issues affecting employment and the future of work in the region, including the need for the ILO's office in Bangkok to provide countries with technical assistance on occupational safety and health. In closing, he thanked the previous Regional Director, Ms Tomoko Nishimoto, and thanked her for her dedication and diligence, which had been greatly beneficial to the region.
- 399. The Employer Vice-Chairperson** welcomed the new Deputy Director-General for Policy and the new Regional Director for Asia and the Pacific and pledged his group's full cooperation with them within the confines of tripartism.
- 400. The Worker Vice-Chairperson** thanked the outgoing Deputy Director-General for Policy, who had worked tirelessly to maintain the ILO's important role as a fortress for social justice.

Decision

- 401. The Governing Body took note of the appointments made by the Director-General after having duly consulted the Officers of the Governing Body, and invited Ms Martha Newton and Ms Chihoko Asada-Miyakawa to make and sign the prescribed declaration of loyalty as provided under article 1.4(b) of the ILO Staff Regulations.**

(GB.340/INS/18/7, paragraph 4)

18.8. Eighth supplementary report: Report of the Committee set up to examine the representation alleging non-observance by Lesotho of the Minimum Wage-Fixing Machinery Convention, 1928 (No. 26) (GB.340/INS/18/8)

(The Governing Body considered this report in its private sitting.)

Decision

402. In the light of the conclusions set out in paragraphs 19, 23 and 24 of document GB.340/INS/18/8 with regard to the matters raised in the representation, and taking into consideration the recommendations of the Committee, the Governing Body decided to:

- (a) approve the report contained in document GB.340/INS/18/8;
- (b) invite the parties to avail themselves of ILO technical assistance over the next 12 months, building on the assistance provided in the late 1990s and more recently in 2012–13, with a view to further supporting the participation of the social partners in, and the effective functioning of, the minimum wage-fixing machinery in the country;
- (c) invite the Government to send in its next report to the Committee of Experts on the Application of Conventions and Recommendations information related to its conclusions; and
- (d) make the report of the Committee publicly available and close the procedure initiated by the representation.

(GB.340/INS/18/8, paragraph 25)

19. Reports of the Officers of the Governing Body

19.1. First report: Representation alleging non-observance by Chile of the Old-Age Insurance (Industry, etc.) Convention, 1933 (No. 35), and the Invalidity Insurance (Industry, etc.) Convention, 1933 (No. 37) (GB.340/INS/19/1)

(The Governing Body considered this report in its private sitting.)

Decision

403. In the light of the information contained in document GB.340/INS/19/1, and taking into consideration the recommendation of its Officers, the Governing Body decided that the representation was receivable and to set up a tripartite committee to examine it.

(GB.340/INS/19/1, paragraph 5)

19.2. Second report: Representation alleging non-observance by Cameroon of the Right of Association (Agriculture) Convention, 1921 (No. 11), the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), the Discrimination (Employment and Occupation) Convention, 1958 (No. 111) and the Termination of Employment Convention, 1982 (No. 158) (GB.340/INS/19/2)

(The Governing Body considered this report in its private sitting.)

Decision

404. In the light of the information contained in document GB.340/INS/19/2, and taking into consideration the recommendation of its Officers, the Governing Body decided that the representation was not receivable.

(GB.340/INS/19/2, paragraph 5)

19.3. Third report: Representation alleging non-observance by Tunisia of the Labour Inspection Convention, 1947 (No. 81) (GB.340/INS/19/3)

(The Governing Body considered this report in its private sitting.)

Decision

405. In the light of the information contained in document GB.340/INS/19/3, and taking into consideration the recommendation of its Officers, the Governing Body decided that the representation was receivable and to set up a tripartite committee to examine it.

(GB.340/INS/19/3, paragraph 5)

19.4. Fourth report: Representation alleging non-observance by Argentina of the Occupational Safety and Health Convention, 1981 (No. 155) and the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187) (GB.340/INS/19/4)

(The Governing Body considered this report in its private sitting.)

Decision

406. In the light of the information contained in document GB.340/INS/19/4, and taking into consideration the recommendation of its Officers, the Governing Body decided that the representation was receivable and to set up a tripartite committee to examine it.

(GB.340/INS/19/4, paragraph 5)

19.5. Fifth report: Representation alleging non-observance by Peru of the Hours of Work (Industry) Convention, 1919 (No. 1) (GB.340/INS/19/5)

(The Governing Body considered this report in its private sitting.)

Decision

407. In the light of the information contained in document GB.340/INS/19/5, and taking into consideration the recommendation of its Officers, the Governing Body decided that the representation was receivable and to set up a tripartite committee to examine it.

(GB.340/INS/19/5, paragraph 5)

19.6. Sixth report: Representation alleging non-observance by Mexico of the Social Security (Minimum Standards) Convention, 1952 (No. 102) (GB.340/INS/19/6)

(The Governing Body considered this report in its private sitting.)

Decision

408. In the light of the information contained in document GB.340/INS/19/6, and taking into consideration the recommendation of its Officers, the Governing Body decided that the representation was receivable and to set up a tripartite committee to examine it.

(GB.340/INS/19/6, paragraph 5)

19.7. Seventh report: Representation alleging non-observance by Peru of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), the Workers with Family Responsibilities Convention, 1981 (No. 156) and the Safety and Health in Mines Convention, 1995 (No. 176) (GB.340/INS/19/7)

(The Governing Body considered this report in its private sitting.)

Decision

409. In the light of the information contained in document GB.340/INS/19/7, and taking into consideration the recommendation of its Officers, the Governing Body decided that the representation was receivable and to set up a tripartite committee to examine it.

(GB.340/INS/19/7, paragraph 5)

19.8. Eighth report: Representation alleging non-observance by Portugal 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) (GB.340/INS/19/8)

(The Governing Body considered this report in its private sitting.)

Decision

- 410. In the light of the information contained in document GB.340/INS/19/8, and taking into consideration the recommendation of its Officers, the Governing Body decided that the representation was receivable and to set up a tripartite committee to examine it.**

(GB.340/INS/19/8, paragraph 5)

19.9. Ninth report: Follow-up to the representation alleging non-observance by Chile of the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187) (GB.340/INS/19/9)

(The Governing Body considered this report in its private sitting.)

Decision

- 411. In light of the information provided in document GB.340/INS/19/9 and on the recommendation of its Officers, the Governing Body decided to:**

- (a) postpone once again the appointment of the committee charged with examining the new representation pending further examination by the Committee of Experts on the Application of Conventions and Recommendations (CEACR) at its 91st Session (November–December 2020) of the follow-up given to the recommendations previously adopted by the Governing Body; and**
- (b) consider the appointment of a tripartite committee at its 341st Session (March 2021).**

(GB.340/INS/19/9, paragraph 9)

19.10. Tenth report: Representation alleging non-observance by Portugal of the Nursing Personnel Convention, 1977 (No. 149) (GB.340/INS/19/10)

(The Governing Body considered this report in its private sitting.)

Decision

- 412. In the light of the information contained in document GB.340/INS/19/10, and taking into consideration the recommendation of its Officers, the Governing Body decided that the representation was receivable and to set up a tripartite committee to examine it.**

(GB.340/INS/19/10, paragraph 5)

20. Procedure for the appointment of members of the Committee of Experts on the Application of Conventions and Recommendations

(The consideration of this item is deferred to the 341st Session (March 2021).)

21. Composition, agenda and programme of standing bodies and meetings (GB.340/INS/21)

Decision

413. The Governing Body decided by correspondence:

- (a) to approve the programme of official meetings listed in the first part of the appendix to document GB.340/INS/21; and
- (b) to request the Office to keep the situation under regular review in consultation with the tripartite constituents so as to implement the programme of official meetings according to the evolving circumstances.

(GB.340/INS/21, paragraph 8)

Summary of written comments received during the consideration of the item by correspondence ¹²

- 414. The Employers' group** wished to clarify that the decision as to whether to hold the additional sectoral meetings listed in the appendix to GB.340/POL/4(Rev.1), had not yet been taken. As stated in subparagraph (d) of the decision concerning sectoral meetings (GB.340/POL/4(Rev.1)), the decision to include a ninth meeting in the programme of sectoral work should be considered by tripartite constituents in the framework of the consultations outlined in document GB.340/INS/21.
- 415. IMEC** thanked the Office for preparing the documents and engaging in consultations regarding that agenda item, which was now more significant than ever since, due to the COVID-19 pandemic, it was impossible to hold meetings as previously planned. Further consideration should be given to how meetings were arranged, while keeping in mind the purpose of each meeting.
- 416.** In general, IMEC supported the Office's proposal to hold meetings related to the Governing Body and supervisory mechanisms fully or partially by virtual means, where it was essential to do so due to the prevailing circumstances. That was important and necessary from the perspective of the continuity of the ILO's work. In the context of COVID-19, the role of the ILO had become all the more important, and the ILO must ensure that its work continued to contribute to the global recovery from the COVID-19 crisis.
- 417.** Virtual meetings were rapidly becoming part of the "new normal" in the ILO and worldwide. As that new custom became common practice, participation in meetings for all constituents should be ensured on an equal footing and working methods specific to virtual meetings continually improved to be more efficient and effective.

¹² The complete text of each comment in the original language is available on the [Governing Body's web page](#), together with the decision.

- 418.** The 340th Session of the Governing Body would be the first experience for the ILO to have substantive discussions in a virtual meeting. Based on that experience, measures to improve the efficiency of virtual meetings should be taken towards improving the experience for the 341st Session and other future meetings.
- 419.** When consideration would be given to resuming face-to-face meetings, hopefully in the not too distant future, all groups should be involved, since national circumstances might be different for each country in terms of travel, health and safety conditions. From that perspective, and considering the fact that there were many meetings for which dates and format were still to be determined, as described in the second part of the Appendix, IMEC supported the Office's proposal to convene tripartite consultations regarding that item, as described in paragraphs 6 and 8(b).
- 420.** The 109th Session of the International Labour Conference could not be deferred again, in order to ensure the continuity of the ILO's work and the fact that the programme and budget had to be adopted on that occasion. The group sincerely hoped that it would be possible to hold it face-to-face, but it was uncertain whether the situation would permit it. IMEC was therefore strongly of the view that the discussion concerning the arrangements for the Conference session should start early and the possibility of holding it virtually not excluded, especially considering the time-bound nature of some of the issues. When considering holding a virtual session of the Conference, more details would need to be discussed, such as how to set a programme and order of business that was efficient and acceptable for different time zones, how to hold elections, and how to ensure strict time management. Such a discussion should start well in advance, based on the experience of the 340th Session of the Governing Body.
- 421.** The Sixth Meeting of the Standards Review Mechanism Tripartite Working Group (Standards Review Mechanism (SRM) Tripartite Working Group (TWG)) was of critical importance to the world of work in order to ensure that ILO standards were up-to-date, robust and relevant. By postponing the meeting to September 2021, the Governing Body would miss one year of SRM TWG recommendations and follow-up by the Office and constituents. IMEC urged the Office to ensure that a year was not lost for the SRM process by proceeding with its work, and urged all SRM TWG constituents to be innovative and flexible in their approaches going forward so as to ensure that the TWG continued its very important work.

Other business

Resolution concerning maritime labour issues and the COVID-19 pandemic

- 422. The Worker spokesperson** presented a draft resolution in accordance with article 5.7 of the Standing Orders of the Governing Body concerning maritime labour issues and coronavirus disease (COVID-19), which was based on negotiations between the International Chamber of Shipping and the International Transport Workers' Federation. She offered her apologies to the Government group for the very short notice. The Workers' group had hoped to present it earlier in the session jointly with the Employers' group as a successful example of social dialogue on an important issue that affected workers and employers worldwide. However, as the Employers' group had not yet completed their consultations, the Workers' group was presenting it alone. She regretted that due to the late submission the Governing Body would not be able to adopt the resolution during the session.

- 423.** The issue was important and pressing, as the border and travel restrictions imposed by governments to contain the spread of COVID-19 had resulted in approximately 400,000 seafarers being trapped working on board ships. The measures had impeded the industry's ability to perform the necessary crew change cycles on which the safety of maritime transportation and the resilience of global supply chains depended. In addition, for every seafarer who could not be repatriated, there was another waiting, unemployed, to board the ship, bringing the number of affected seafarers to 800,000. Estimates indicated that up to 1 million seafarers could be affected by March 2021 if concerted action was not taken to alleviate the crisis. As the shipping industry transported around 90 per cent of the world's goods, there was also a significant potential impact on the global economy. The seafarers awaiting repatriation had completed their original tour of duty and some had been on board for more than 17 consecutive months, often without access to shore-based leave or medical treatment. Cases of total desperation and even suicide had been reported. As the situation stood, seafarers' rights at work were being adversely affected and the provisions on decent work and living conditions under the Maritime Labour Convention, 2006, as amended, (MLC, 2006) were not being upheld. Furthermore, seafarer fatigue presented immense risks not only to the physical and mental health of individual seafarers, but also increased the risk of maritime incidents and environmental disasters. While governments were facing difficulties and had to protect public health in their populations, too little progress had been made to diffuse the situation. Flag, port and labour-supply States had interrelated duties to seafarers to work together to arrange, facilitate or finance their repatriation. She expressed the hope that all groups of the Governing Body would support the resolution to send a strong, unified message on the issue.
- 424. The Employer spokesperson** said that dialogue should always involve sensitivity to each other's unique circumstances, respect and reciprocity. Despite having had three meetings, the Officers of the Governing Body had not been made aware of the matter before receiving the draft resolution. It was crucial to respect proper governance, even on urgent matters. Nevertheless, the Employers' group was not disputing the substance of the draft resolution and had made special efforts to prioritize its discussion. Having been briefed by the International Chamber of Shipping, the group had suggested minor adjustments to the draft resolution so that it could be considered as a joint proposal of the Employers' and Workers' groups. The Employers looked forward to consultations to define a process for adopting the draft resolution on an urgent basis after the session, given the importance of the issue at stake.
- 425. The Chairperson of the Government group** said that his group sympathized with the challenges faced by seafarers in the context of the global pandemic, fully understood the importance and urgency of the issue and would participate constructively in any discussions. However, having received the draft resolution only two days before the end of the session, the Governments would need more time to reflect on the measures they were being called on to take, and to consult with the relevant ministries and government authorities. While the Government group was therefore not in a position to approve the resolution during the session, it was committed to reviewing the matter as quickly as possible. He suggested that the Screening Group should define the next steps in considering the draft resolution, which could involve tripartite discussions followed by some form of approval by correspondence.
- 426. The Worker spokesperson** said that her group fully agreed that governments must have the necessary time to undertake the proper consultations. The Workers' group had been working closely with the social partners in the shipping industry and the issue was of equal interest to shipowners and businesses as it was to workers. Shipowners had

been awaiting the Employers' group's agreement so as to demonstrate strong commitment from both social partners within the Governing Body. In order to expedite the process in the unprecedented circumstances, workers would exceptionally agree to it being discussed by the Screening Group, with the additional participation of industry experts and members of the Special Tripartite Committee of the Maritime Labour Convention 2006, as amended (STCMLC). The unanimous commitment of the Government group was a promising sign that it would indeed be possible to develop a strong, unified message from the ILO, which would also feed into discussions at other UN agencies and elsewhere around the world. Recalling the urgency of the matter, she appealed to the meeting of the Screening Group and members of the STCMLC to take place before the end of November 2020 to allow time for the vote by correspondence and to ensure that the resolution was published by the beginning of December, before the General Assembly of the United Nations would be adopting a resolution on the impact of the pandemic in the maritime sector.

- 427. A representative of the Director-General** (Deputy Director-General, Management and Reform) said that under paragraph 29(g) of the special arrangements for the 340th Session,¹³ the Governing Body could decide to put an item to a decision by correspondence after the session in consultation with the Screening Group. Governing Body members had expressed the desire to extend the consultations beyond the members of the Screening Group to include Government, Employer and Worker experts from the shipping industry. Subject to consensus in the Governing Body, the ballot by correspondence would seem to be the most practical way to proceed.
- 428. The Employer spokesperson** said that as the IOE was the sole secretariat of the Employers at the ILO, any matters dealt with by the Office should be communicated to it, rather than directly to business organizations. The issue concerned an emergency that had begun before the current session, therefore the Governing Body should have been notified in advance. Nevertheless, it was to be hoped that the adoption of the resolution could be expedited in order to lend the necessary assistance to those affected.
- 429. The Government representative of Panama**, also speaking on behalf of the Government of the Philippines, said that as the countries with the world's largest maritime registry and greatest number of seafarers, respectively, they would like to thank the countries that had worked with them to repatriate seafarers. He called on other countries to work together to establish mechanisms to facilitate the repatriation of seafarers who had become stranded owing to the COVID-19 pandemic. When road and air transport had been closed down, all goods had been transported by sea. The ports had also remained open in order to ensure that humanitarian aid could continue to be provided to those countries most in need in the region.
- 430. The Director-General** said that it was apparent that the constituents agreed that the matter was of great importance and urgency. If the draft resolution was indeed unlikely to create significant differences of opinion among the groups, it could therefore be dealt with by correspondence if the Governing Body agreed.
- 431. The Employer spokesperson** said that the secretariats were already in discussions, and agreed with the Director-General's proposed procedure.
- 432. The Chairperson of the Government group** reiterated that his group would be able to participate swiftly and constructively in the tripartite consultations with a view to

¹³ GB.340/INS/1(Rev.1).

agreeing on the text and content of the resolution. The vote by correspondence was however the last stage in the adoption process.

Decisions

- 433.** Having received a draft resolution submitted jointly by the Workers' and the Employers' groups concerning maritime labour issues and coronavirus disease (COVID-19), the Governing Body, in light of the importance of the matter, decided to refer it to the Screening Group for consideration as a matter of urgency in consultation with the Officers of the Special Tripartite Committee of the Maritime Labour Convention, with a view to adopting a resolution on these issues by correspondence, if so agreed by the Screening Group.
- 434.** Following consultations, the Governing Body adopted by correspondence on 8 December 2020 a revised version of the draft resolution (GB.340/Resolution (Rev.2)) proposed by the Screening Group.

Summary of statements received during the consideration of the item by correspondence ¹⁴

- 435.** In a statement on behalf of **the EU and its Member States**, it was noted that Turkey, North Macedonia, Montenegro, Albania, Republic of Moldova, Armenia and Georgia aligned themselves with the statement. They supported the adoption of the draft ILO resolution.
- 436.** In March 2020, the EU had issued guidance recommending that workers involved in the supply of goods, maritime and inland navigation workers and fishers should be classified as essential, and in October 2020, EU Member States had adopted a recommendation on a coordinated approach in response to the pandemic, facilitating the free movement of essential workers, including seafarers.
- 437.** As international cooperation was essential due to the global nature of maritime transport and fishing activities, the EU and its Member States welcomed initiatives taken by the Office, the Officers of the STCMLC, international social partners, the International Maritime Organization and other UN agencies and programmes to address the situation. Furthermore, they thanked the Government of Indonesia for taking the initiative to pursue the matter at the UN General Assembly, and welcomed the subsequent adoption by consensus of the General Assembly resolution of 1 December 2020 entitled "International cooperation to address challenges faced by seafarers as a result of the COVID-19 pandemic to support global supply chains". They also fully supported the draft ILO resolution, as the actions it called for were essential to ensuring the health of hundreds of thousands of seafarers and fishers, preventing accidents and securing the functioning of global supply chains.
- 438. Morocco** noted that it had no objections to or comments on the revised text of the resolution. The Government had taken action to facilitate the work of seafarers and prevent infection, including extending expired Standards of Training, Certification and Watchkeeping (STCW) certificates; issuing a note to shipowners on recording people's movements via an app; and decentralizing, outsourcing and digitizing the issuance of STCW certificates. The central seafarers' service was operating a rapid response email service to authorize crew changes for both Moroccan and foreign seafarers and to

¹⁴ The complete text of each statement in the original language is webposted on the same [web page](#) as the decision.

handle seafarers' requests to access onshore medical care in ports throughout the country.

- 439. The United Kingdom** noted that collective international efforts had rightly prioritized the continued functioning of global supply chains to ensure the resilience of national economies. A key element of the draft ILO resolution was the ability for seafarers to access on-shore medical care. While recognizing that governments wanted to protect their domestic population, the Government of the United Kingdom urged States to take immediate action for the sake of seafarers' physical and mental welfare, their families, the protection of the marine environment and the protection of the global economy and supply chains. Whether a net importer or exporter, every State relied on seafarers for the delivery of vital goods and services. The Government welcomed the adoption of the UN General Assembly resolution of 1 December 2020, and expressed the hope that the Governing Body would adopt the draft ILO resolution.
- 440. The United States** joined the consensus on the draft resolution. The Government had strongly advocated that States should take decisive action to facilitate crew rotations and had supported similar resolutions in the International Maritime Organization and the UN General Assembly. The Government had recognized the importance of seafarers by designating them as key workers early in the pandemic; had successfully facilitated numerous crew changes and repatriations of seafarers; and had fulfilled its international obligations to ensure access to emergency medical care to address the serious impacts of COVID-19 on the seafarer community, while taking into account the health concerns of coastal States.
- 441.** The Government of the United States interpreted the term "multinational and national enterprises" to have the same scope as "business enterprises" in the UN Guiding Principles on Business and Human Rights. The non-binding resolution did not impose legal obligations on States and, as such, did not impute obligations from the MLC, 2006, to States that had not ratified it. It was to be hoped that in drawing the world's attention to the plight of seafarers, the resolution could stimulate efforts to assist them.

Trade union rights in the Sudan

- 442. The Worker spokesperson** expressed her group's strong concerns about the violation of trade union rights in the Sudan. On 14 December 2019, the Sudan's Sovereign Council had reportedly issued a decree dissolving all trade unions and professional associations in the Sudan, including the Sudanese Workers' Trade Union Federation (SWTUF). As a result, officials and members of the SWTUF and its affiliates were prohibited from engaging in trade union activities and, on 25 March 2020, the Sovereign Council seized SWTUF property and assets. Two union leaders, Mr Abbas Mohammed Ahmed Habib Allah and Mr Tarek Mahmoud, President and General Secretary respectively of the National Education Union, had been arrested and detained for two days and released on bail for refusing to hand over the union's property and assets to the designated government worker committee.
- 443.** Hundreds of public sector workers, including trade unionists, had since been summarily dismissed by the Sudanese Government, which had closed the doors to social dialogue, refusing to cooperate with the SWTUF and its affiliates. Workers had been seriously affected by the dissolution and ban on the activities of the SWTUF and its affiliates, including a deterioration in their working and living conditions.
- 444.** The Workers' group therefore called on the Government of the Sudan to: immediately reverse the decision to dissolve the SWTUF; refrain from imposing caretaker committees

to take charge of the administration and management of trade unions and professional associations; immediately withdraw the police from all trade union premises; order the restitution of all SWTUF assets; and stop the dismissal, prosecution, intimidation and harassment of trade union officials and members. It also called on the Government to respect the right of workers to establish organizations of their own choosing without interference from the public authorities, and to engage in genuine social dialogue with the SWTUF and its affiliates.

Closure of the session

- 445. The Director-General** thanked everyone who had made it possible to conduct the 340th Session of the Governing Body in a virtual form, motivated by the understanding that it was absolutely crucial for the institutional life of the Organization for the Governing Body session to take place, after the interruptions of recent months, and for important business to be conducted in satisfactory conditions. That had been achieved, owing to the extraordinary commitment and participation of members of the Governing Body. He also thanked those who had chaired the different sittings, guiding members in such unusual conditions with extraordinary skill, and his colleagues in the Office, who had managed the technology and put in place complex procedural mechanisms to enable the business to be conducted so successfully.
- 446. The Worker spokesperson** thanked everyone for their work and commitment during the session. Despite good procedural arrangements, a virtual meeting had its limitations, including the lack of an informal negotiating space for consultations. She agreed with the Director-General on the importance of holding the session, not least to show that the ILO was functioning, that it was very much needed and that it could also deliver, but expressed the hope that the Governing Body could hold a physical meeting in March 2021, or soon thereafter.
- 447. An Employer member from Colombia**, noting that two sittings had been chaired by a substitute Chairperson, sought clarification from the Legal Adviser on chairing duties. In accordance with paragraph 2.2.5 of the Standing Orders of the Governing Body and paragraph 19 of the [special arrangements for the 340th Session](#), the Chairperson should normally preside at all sittings and, in the absence of the Chairperson, only a regular or deputy member could be assigned chairing duties. As the Governing Body had elected the Secretary of Labour and Employment of India as Chairperson, he questioned the validity of another representative of the Government of India who was not a member of the Governing Body being assigned chairing duties rather than one of the Vice-Chairpersons or a member from another country.
- 448. The Legal Adviser** recalled that, under paragraph 2.2.5 of the Standing Orders of the Governing Body, the Chairperson was entitled to assign a regular or deputy member the functions necessary for chairing a particular segment and added that under paragraph 19 of the special arrangements for the 340th Session, the Chairperson was afforded broader discretion insofar as he could assign to a representative of a regular or deputy member chairing functions also for a specific sitting or agenda item. Recalling that India was a regular member of the Governing Body, he said that nothing prevented the elected Chairperson of the Governing Body from assigning to the Permanent Representative of his own country the functions necessary for chairing the sitting, as he had announced the day prior to the sitting, in accordance with paragraph 2.2.5 of the Standing Orders and paragraph 19 of the special arrangements.
- 449. The Employer spokesperson** agreed that virtual meetings did complicate proceedings and noted that some sittings had been better than others; indeed, it was regrettable that

more time had not been allowed for consultations with a view to reaching consensus on a decision relating to the Bolivarian Republic of Venezuela. Lessons could be learned, however, to help improve matters at future meetings. In spite of the difficult conditions and discussions, the Governing Body session had gone quite well overall and some important decisions had been made in the quest to ensure that the ILO was relevant going forward and helped the world as the only organization that respected social dialogue and tripartism. Although he preferred physical meetings, he recognized that one of the advantages of a virtual session was that it had encouraged participants to be concise and focused. He thanked those who had chaired the different sittings and commended the Office's determination to adapt to the new ways of working.

- 450. Speaking on behalf of IMEC**, a Government representative of Canada thanked all those who had contributed to the organization and smooth functioning of the Governing Body's first-ever virtual session, despite the challenging logistical context, and the social partners and other governments for their constructive efforts towards reaching consensus. While members of her group missed the in-person interactions, they appreciated the spirit in which participants had engaged in the virtual forum to ensure the important governance work of the Organization could proceed. Together, members of the Governing Body had been successful in advancing the ILO's work.
- 451. Speaking on behalf of ASPAG**, a Government representative of Japan applauded the efforts of those involved in organizing and conducting the Governing Body session. He expressed his group's appreciation for the efforts of the other groups to engage constructively in the discussions and for the robust tripartite consultations that had helped build consensus, and which had led to many outcomes. He looked forward to further collaboration at the Governing Body's 341st Session.
- 452. A Government representative of Brazil** echoed the gratitude expressed by previous speakers to all those who had worked hard to make the virtual session possible. However, he could not share the optimism of the Director-General and others in the assessment of the first virtual session of the Governing Body, owing to his Government's disappointment at what had happened during the discussions relating to the Bolivarian Republic of Venezuela. Brazil had supported the holding of a virtual session of the Governing Body, with special arrangements and rules of procedure, to allow urgent and necessary decisions to be taken that would have a bearing on the world of work. The Governing Body had failed in that regard. Brazil had not supported the special arrangements and rules of procedure only for them to be misused and objected to the notion of hiding behind procedures to avoid being held accountable for serious violations of labour rights. Options had been available for a decision-making process for difficult and urgent matters. Members should carefully reflect on the lessons learned and return in March ready to take the decisions that were long overdue.
- 453. A Government representative of the United States** acknowledged that it had been a difficult Governing Body session to conduct, and he appreciated the hard work of those who had made it possible. Agreeing with the Director-General on the importance of holding the meeting, and despite the major problem that had occurred during the discussions relating to the Bolivarian Republic of Venezuela, his Government was glad it had taken place. He expressed regret that the Employers and the Workers had not been given the opportunity to speak as they had so requested during the discussions on the Bolivarian Republic of Venezuela. It was doubly regrettable as one of the groups had actually come up with a potential solution that might have met with consensus and settled the matter in the interest of all the parties involved.

454. Operating virtually, it had been the goal of the Office to replicate as much as possible the attributes of a physical meeting, but unfortunately some of the rules and outcomes had not been as they would have been in a physical meeting. The situation had arisen in which there were rules that had allowed not only one country to be able to block consensus, but also one country to block a vote; that seemed inconsistent with the democratic mandate of the Organization. He firmly hoped that the rules would be reviewed or changed should the Governing Body need to hold a virtual session in the future.
455. **The Chairperson** thanked the members of the Governing Body, the Director-General and his team and the members of the Office who had assisted and guided the Chairperson throughout the session. The work of the Governing Body had been conducted under very challenging circumstances, and the experience gained during the session would prove invaluable should it be necessary for the Governing Body to hold a virtual session in the future.