

# Committee on the Application of Standards

Date: 11 June 2022

## Part One

### ▶ Draft General Report

#### A. Introduction

1. In accordance with article 7 of the Standing Orders, the Conference set up a Committee to consider and report on item III on the agenda: "Information and reports on the application of Conventions and Recommendations". The Committee was composed of XX members (XX Government members, XX Employer members and XX Worker members). It also included XX Government deputy members, XX Employer deputy members, and XX Worker deputy members. In addition, XX international non-governmental organizations were represented by observers.
2. The Committee elected its Officers as follows:  
  
**Chairperson:** Mr Pablo Topet  
(Government member, Argentina)  
  
**Vice-Chairpersons:** Ms Sonia Regenbogen (Employer member, Canada) and  
Mr Marc Leemans (Worker member, Belgium)  
  
**Reporter:** Mr Zaman Mehdi (Government member, Pakistan)
3. The Committee held 20 sittings.
4. In accordance with its terms of reference, the Committee considered: (i) the reports supplied under articles 22 and 35 of the ILO Constitution on the application of ratified Conventions; (ii) the reports requested by the Governing Body under article 19 of the Constitution on the Nursing Personnel Convention, 1977 (No. 149), the Nursing Personnel Recommendation, 1977 (No. 157), the Domestic Workers Convention, 2011 (No. 189) and the Domestic Workers Recommendation, 2011 (No. 201); (iii) the information supplied under article 19 of the Constitution on the submission to the competent authorities of Conventions and

Recommendations adopted by the Conference; and (iv) written information supplied by the governments.<sup>1</sup>

## Opening sitting

5. **Chairperson:** I am deeply honoured by the responsibility given to me to chair the work of the Committee on the Application of Standards. And I must thank the Group of the Americas (GRUA), for proposing a representative from Argentina in such a significant year for the Organization, when Guy Ryder will exercise his remarkable leadership as Director-General of the International Labour for the last time.
6. Very early on, the Latin American and Caribbean region adopted the world's first social Constitution in 1917, in the city of Querétaro, Mexico, and inscribed its labour legislation in the context of the ILO's standard-setting activities with the remarkable ratification of eight international labour Conventions by Chile in 1925, which marked the beginning of uninterrupted ratifications by the rest of the countries in the region. These programmes were recognized when the stamp of social protection and economic efficiency was given by Wilfred Jenks, Director-General of the ILO, when he affirmed in the ILO's Inter-American Advisory Committee in San José, Costa Rica in 1972: "There has always been a special relationship between the Americas and the ILO and our regional activities in the world began almost 37 years ago in Santiago de Chile, where the first ILO Regional Conference was held. It was in the Americas, in the late 1930s and early 1940s, that we began our worldwide technical cooperation programme".
7. The region has shown considerable appreciation and respect for the standard-setting actions of the Organization and for the system of supervision of compliance with the standards (at first new and now patrimony of the international community) that was finalized on the basis of the text of the 1919 Constitution, in a series of processes, resources and bodies, which contribute to legitimizing the very existence of the International Labour Organization.
8. I have no doubt that one of the most relevant and successful expressions of the institutional history that began in the twentieth century and still continues to the present is the dream come true of a committee that seeks, in a tripartite manner, to contribute to the realization of social justice and, in an updated expression of these times, to make decent work a reality in all domains, regardless of the social, political and economic systems.
9. Nicolás Válticos said that one could overemphasize the importance, at the international level, of methods for monitoring compliance with international human rights texts nor the driving role played, in the past and still today, by the system established by the ILO to promote greater respect for these rights, as underlined by Virginia Leary.
10. For my part, I can think of no greater utopia to channel social conflicts in contemporary society as the creation in 1926 of this Committee on the Application of Standards, in which all perspectives from the world of work join together aimed at ensuring that, through all possible efforts, the great principles that inspire standards are made a reality in every work relationship and in every productive effort, even in situations of independency, without attributing importance to the size of the workplace or the geographic place in which it is located.
11. The dream that we here stubbornly pursue is that of a world without discrimination, without forced labour, without child labour and with freedom of association within a framework of

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<sup>1</sup> Report III to the International Labour Conference – Part A: Report of the Committee of Experts on the Application of Conventions and Recommendations; Part B: General Survey.

unbridled respect for civil liberties. It is the time of rights and the Committee's irreplaceable task is to strengthen it, so that no one, under any circumstances, is left behind or left out.

12. To carry out that to which we have committed, we count on the power of the word in times when it is not honoured. The mandate for those of us who have the privilege and responsibility of occupying the seats in this room is to honour the tradition of those who believe it is not in vain to attempt to influence the leaders of global institutions and governments, to guide the rules that order the world. There is no doubt that, here too, social justice is being built and peace is being strengthened, with the power of the word. This Committee demonstrates extraordinary achievements and has become a public forum of universal scope in which to discuss governments' compliance with constitutional obligations, the way in which national systems respect ratified standards in law and practice, and what challenges and difficulties governments face in implementing Conventions they have not ratified and international labour Recommendations. It records the progress and failures of the international community in the quest to affirm the importance of adopting international labour standards.
13. If you ask me where I would prefer to be in these two weeks of tasks ahead of us, I would not hesitate to answer that it is here, in this Conference, in this Committee, before you, being part of your efforts of argumentation and conciliation, in which you are going to demonstrate once again your formidable capacity to come to and maintain balanced conclusions.
14. I am going to turn to a writer and poet of my country, who chose this city to live and where he rests, Jorge Luis Borges, and the poem "Los conjurados", in which he imagined the act in which the Federal Charter was signed, in Switzerland in 1291, to express my hope about what will happen in this room: "It is about men of all sorts, who profess religions of all sorts and speak languages of all sorts. They have made the extraordinary decision to be reasonable. They have decided to forget their differences and emphasize their affinities." I imagine that you will share my own feelings about these verses, which I know were also written for you. And I dare say that the tasks we undertake today, and which will come to an end in 11 days' time, will be crowned with success for two reasons: the first because no one will have spared neither time nor effort to seek affinities, and the second because you will return to inspire, in the international community, a sense of hope in social dialogue as a civilized pathway towards ensuring, without delay or exception, the well-being of all persons throughout the world.
15. Let me conclude with the Preamble of the Constitution, the Organization's living conscience, when over 100 years ago it reminded us: "Whereas also the failure of any nation to adopt humane conditions of labour is an obstacle in the way of other nations which desire to improve the conditions in their own countries ...". This is written in stone and in these turbulent times guides us to act; and the Committee will honour the expectation enshrined therein.
16. **Employer members:** The discussion this year takes place against the backdrop of the pandemic which, while fading, continues to affect countries' social and economic circumstances. Also, regrettably, it is not possible to make any opening words without acknowledging the difficult circumstance of the Russian invasion of Ukraine which has created another shock for the world community and, regrettably, an assault on peace everywhere. While countries are emerging from the pandemic, now, regrettably, the severe geopolitical, economic and social effects of the Russian war on Ukraine are only beginning to emerge. All of this will have serious effects on both the application and the supervision of ILO standards and we note that we must be prepared for this and take it into account in our work.
17. I would like to recall that the Standing Orders of the Conference indicate that the Committee on the Application of Standards has an unrestricted mandate to supervise the application of standards and it is in this spirit that we join together today. In delivering its tasks, the

Conference Committee receives technical preparatory support from the Office and the Committee of Experts' reports and written information provided by the governments as a starting basis for our work and our discussion. As participants know, the Committee adopts conclusions on all items discussed and does so autonomously without being bound by the views or analysis of other parties. This makes the work that we are preparing to do here so very important.

18. The ILO Centenary Declaration calls on all tripartite constituents to promote a clear, robust, up-to-date body of standards and to further enhance transparency. International labour standards also need to respond to the changing patterns of the world of work, protect workers and take into account the needs of sustainable enterprises and be subject to authoritative and effective supervision. To fulfil the mandate, given by the Centenary Declaration, in international labour standards supervision, the Employers' group are of the view that the Committee also needs to give full attention in its work to the changing patterns of the world of work, worker protection needs and the needs of sustainable enterprises. To achieve balanced and practicable recommendations, the Committee also needs to take into account the different national realities of ILO Member States. All of this should be reflected in our discussions and the outcomes of our debates.
19. In fully recognizing the ongoing upheaval in the world of work and the world more broadly, the ILO needs to carefully listen to its constituents to understand the actual needs specific to the national context and to be able to support countries and stakeholders more effectively, with relevant and focused guidance. In our view, this is the role of national social dialogue and tripartism that can feed into this important support and should guide international labour standards supervision. The Conference Committee, the Committee of Experts and the Office that provides support to the work of both Committees must, in our view, demonstrate their capacity for practical reality, balance, transparency and pragmatism as we assume our share of responsibility for resilient, recovering economies and labour markets in ILO Member States.
20. The Employers' group very much looks forward to a results-oriented, effective and balanced tripartite dialogue at this session. We are very happy to have a large group here in person, ready and dedicated to participating constructively. While divergence of views on substantial issues continues to exist among constituents and between the Conference Committee and the Committee of Experts, we trust that they will continue to be voiced in the spirit of mutual respect and understanding. The Employers' group requested the views expressed in the Committee and in the Committee's conclusions to be duly considered by other ILO supervisory bodies and by the Office that provides support to the overall system and technical assistance, as well as by other ILO initiatives and discussions in the context of the 2030 Agenda for Sustainable Development.
21. In concluding, let me say that I am truly delighted to see so many constituents here in Geneva. While still a large number of colleagues from regions of the world were not able to join us in person, we are very pleased that they will, nevertheless, be able to connect virtually to follow and to contribute to our debates and we appreciate their dedication in doing so, as they may be joining either very late or very early in their day, so we appreciate this effort and this connection.
22. **Worker members:** Our Committee is meeting in Geneva again this year, not quite in the usual format, but in a global context that remains complicated. While COVID-19 is not yet behind us and we will certainly have to live with its consequences for many years to come, a conflict with global repercussions has recently broken out. I would like to express the solidarity of the

Workers' group with the Ukrainian people who are still suffering the dramatic consequences of the Russian aggression in Ukraine.

23. As we clearly saw during the COVID-19 crisis and we unfortunately see all too often in the examination of individual cases, crises of any kind have a disastrous impact on compliance with international labour standards. We will see it again in this year's general discussion and in the examination of certain individual cases. The world of work is not immune to the consequences of these crisis situations, during which not only fundamental labour standards but also civil liberties are very often swept aside. At the forefront of the rights and freedoms being violated are freedom of association and the right to collective bargaining. These are the enabling rights without which other labour rights remain a dead letter. In this regard, I wish to express my group's solidarity with the workers in Brazil, India, Cambodia and Indonesia, and the trade unions that represent them, who are facing serious violations of their fundamental rights and freedoms.
24. Often it is the most vulnerable among us who bear the brunt of these crises. We have just completed a global conference in Durban on the elimination of child labour, which made the sad observation that child labour has increased during this crisis after having declined for many years. We must therefore redouble our efforts to reverse this trend and accelerate the eradication of this scourge by implementing as soon as possible the actions recommended at the end of the global conference in Durban. One of these recommendations concerns universal access to free, compulsory, quality, equitable and inclusive education and training. One of the ways to achieve these goals is to build the capacity of teachers around the world. The issue of the status of teachers will be discussed during the course of our work through the examination of the joint ILO/UNESCO report on the Application of the Recommendations concerning Teaching Personnel.
25. None of us had imagined that at the end of the Centenary of our Organization, the new impetus given by the Centenary Declaration would already be confronted with such major obstacles as the COVID-19 pandemic and the Russian aggression against Ukraine. However, we must not forget that it was in order to deal with these difficult situations that this Declaration was adopted during the Centenary of our Organization and that the principles it contains should guide us in responding appropriately to present and future crises. Although it is under particular pressure in this context, the importance of multilateralism in preventing, managing and responding to the various crises we face cannot be stressed enough. The involvement of social partners and civil society actors in dealing with these crises is also fundamental and must be replicated in other United Nations agencies. While this involvement is structurally enshrined within our Organization, of which tripartism is the foundation, the model should be exported to the other United Nations agencies, which would see their action significantly strengthened by the involvement of civil society.
26. The fundamental mission of our Committee is especially relevant in this context. Our Committee monitors the application of international labour standards. The Director-General of the International Labour Office rightly recalled in his opening speech to the Conference that the work of our Committee goes to the heart of the ILO's historic standard-setting role. He stressed that it is in our Committee that the rules we have set for more than a century can fully materialize. We thus promote respect for these standards by Member States that are not in compliance, by making recommendations to enable them to implement and respect the rights, freedoms and obligations enshrined in the standards. Promoting respect for international labour standards must be our leitmotiv because it allows us to maintain social peace and to fight against injustices, misery and deprivation, which are still too widespread today. Our

Committee thus plays a central role in the ILO's supervisory system. We must continue to insist on the need to preserve and strengthen this system.

27. While our Committee plays a central role in this respect, it is also worth emphasizing the equally important role of the Committee of Experts and the Committee on Freedom of Association, with whom we will have the pleasure of exchanging during the general discussion. These two supervisory bodies must also be preserved and strengthened in their respective roles for the benefit of the effectiveness of the ILO supervisory system. Compliance by Member States with their reporting obligations is also an essential element in ensuring the effectiveness of the ILO supervisory mechanisms. We will have the opportunity to return to this in the context of our important discussion on cases of serious failure to respect standards-related obligations.
28. In addition to monitoring compliance with international labour standards, our Committee makes an essential contribution to promoting the ratification of Conventions and identifying areas in which new standard-setting initiatives could be taken. This is the purpose of the General Surveys that we systematically discuss in the course of our work. This year, the General Survey will focus on decent work for nurses and domestic workers. They are indispensable in our societies and have proven to be more than indispensable in the context of the health crisis we have experienced over the past two years. Despite the essential nature of these professions for our societies, we will have the opportunity to note during our discussion that they are facing serious difficulties and challenges. We will not fail to highlight the prospects that should be offered to these workers to effectively guarantee them decent work.
29. Our work has an influence at all the levels I have just mentioned. These are areas that sometimes go beyond the strict framework of our work, but it is nevertheless useful to be aware that the work of our Committee has a much wider reach than we can sometimes imagine. I would like us to conduct our work bearing in mind that each of the advances we make is, and must be, a step forward that brings us a little closer to the founding objective of the ILO, namely to work towards the social justice that is indispensable for lasting and universal peace.

## Work of the Committee

30. During its opening sitting, the Committee adopted document D.1, which sets out the manner in which the work of the Committee is carried out<sup>2</sup> and, on that basis, the Committee considered its working methods, as reflected below.
31. In accordance with its usual practice, the Committee continued its work with a discussion on general aspects of the application of Conventions and Recommendations and the discharge by Member States of standards-related obligations under the ILO Constitution. In this general discussion, reference was made to Part One of the report of the Committee of Experts on the Application of Conventions and Recommendations. A summary of the general discussion is found under relevant headings in sections A and B of Part One of this report.
32. The final part of the general discussion focused on the General Survey entitled *Securing decent work for nursing personnel and domestic workers, key actors in the care economy*. This discussion is contained in section A of Part Two of this report. The outcome of this discussion is contained in section C of Part One of this report.

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<sup>2</sup> Work of the Committee on the Application of Standards, ILC, 110th Session, [CAN/D.1](#) (see Appendix 1).

33. Following these discussions, the Committee considered the cases of serious failure by Member States to respect their reporting and other standards-related obligations. The result of the examination of these cases is contained in section D of Part One of this report. More detailed information on that discussion is contained in section II of Part B of this report.
34. The Committee then considered 22 individual cases relating to the application of various Conventions. The examination of the individual cases was based principally on the observations contained in the Committee of Experts' report and the oral and written explanations provided by the governments concerned. As usual, the Committee also referred to its discussions in previous years, comments received from employers' and workers' organizations and, where appropriate, reports of other supervisory bodies of the ILO and other international organizations. Time restrictions related to COVID-19 required the Committee to select a limited number of individual cases among the Committee of Experts' observations. With reference to its examination of these cases, the Committee reiterated the importance it placed on the role of tripartite dialogue in its work and trusted that the governments of the countries selected would make every effort to take the necessary measures to fulfil their obligations under ratified Conventions. The information submitted by governments and the discussions of the examination of individual cases, as well as the conclusions adopted by the Committee, are contained in section IV of Part Two of this report.
35. Finally, the Committee considered the Report of the Joint ILO/UNESCO Committee of Experts on the Application of the Recommendations concerning Teaching Personnel (CEART), following its 14th Session held virtually from 4 to 8 October 2021, hosted by the United Nations Educational, Scientific and Cultural Organization (UNESCO). The record of this discussion is contained in section III of Part Two of this report.
36. The adoption of the report and the closing remarks are contained in section E of Part One of this report.

### Working methods of the Committee

37. **Chairperson:** To ensure the success of our Committee and be able to complete our work, we must respect our work schedule and strictly apply the measures contained in document D.1, particularly with regard to time management. I invite you to consult the speaking times set out in document D.1 for each item on the agenda that were accepted during the tripartite consultations. In this regard, and while we appreciate the possibility of meeting together, it is important to remember that the Committee continues to operate within the framework of exceptional arrangements and will have less time to carry out its work.
38. During the speeches, the screens will indicate the time remaining for the speakers and I ask you to try to ensure that the time limits are respected. If necessary, once the maximum time limit has been reached, I will be obliged to interrupt the speaker. If necessary, and in consultation with the other Officers of the Committee, I will also resort to the possibility of reducing the speaking times, for example, in cases where there is a long list of speakers. Where such a decision justifies it, I will announce the maximum speaking times at the beginning of each sitting, which must be strictly observed.
39. In this respect, to enable the Officers to take timely decisions, delegates who are accredited to the meeting of the Conference and registered in the Committee who wish to take the floor, should register on the list of speakers as soon as possible. Delegates should request their inclusion on the list of speakers 24 hours prior to the examination of each item on the Committee's agenda by sending the form available on the Committee's web page by email to: [can2022@ilo.org](mailto:can2022@ilo.org).

40. The information on the form should specify the name, title and contact information of the person who wishes to take the floor, as well as the topic on which he or she wishes to speak. It is also very important that delegates clearly indicate on the form whether the speech will be delivered in person or by Zoom. In addition, and in accordance with the Committee's practice, observers may only be registered on the list of speakers following approval by the Officers of the Committee.
41. The list of speakers and the number of speakers registered to take the floor will be visible on the screens in the room. Furthermore, as far as possible, I encourage speakers to make interventions on behalf of a group instead of individual statements. I remind you that the general discussion, the discussion on the General Survey and the discussion on cases of serious failure to comply with reporting obligations and other standards-related obligations, and the discussion of cases in which governments are invited to respond to the comments of the Committee of Experts ("individual" cases) will be produced in the form of verbatim transcripts.
42. Each intervention will be reproduced in extenso in the language of work in which it has been delivered, or failing that, chosen by the government – English, French or Spanish – and the verbatim draft minutes will be made available online on the Committee's dedicated web page. It is the Committee's practice to accept amendments to the verbatim draft minutes of previous sittings prior to their adoption by the Committee. The time available to delegates to submit amendments to the verbatim draft minutes will be clearly indicated by the Chairperson when they are made available to the Committee. Delegates are asked to submit their amendments electronically in "track changes" via the following address: [can2022@ilo.org](mailto:can2022@ilo.org). In order to make amendments directly in track changes, delegates are invited to request the Word version of the draft verbatim minutes by sending an email to the address above.
43. In order to avoid delays in the preparation of the Committee's report, no amendments may be accepted once the draft minutes have been approved. To the extent that the discussions are reproduced in extenso in the form of verbatim draft minutes, their amendments will be limited exclusively to the elimination of transcription errors.
44. I also wish to draw your attention to the fact that, as indicated in document D.0 – the provisional working schedule – available on the Committee's web page, all draft conclusions on individual cases will be adopted on the afternoon of Thursday, 9 June and the morning of Friday, 10 June.
45. To conclude, I would like to draw your attention to the fact that, in accordance with Part X of document D.1, all delegates have an obligation to the Conference to abide by parliamentary language and by the generally accepted procedure. Interventions should be relevant to the subject under discussion and should avoid references to extraneous matters. It is my task, as Chairperson of this Committee, to ensure respect of these rules of decorum.

### Adoption of the list of individual cases

46. The Committee adopted, during the course of the opening sitting, the list of individual cases to be discussed.<sup>3</sup>
47. **Worker members:** The previous session of our Committee took place in a totally virtual format because of the constraints arising from COVID-19. This year, even though the COVID-19 limitations are less acute, there have unfortunately been some additional logistical constraints,

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<sup>3</sup> ILC, 110th Session, Committee on the Application of Standards, [CAN/D.2](#).



and that prevents us from returning to our Committee's usual *modus operandi*. It will therefore be a hybrid format this year.

48. The hybrid format also involves the same challenges that we faced last year but this is compounded by the organizational demands connected with the participation of the delegates present in Geneva. Restrictions linked to COVID-19 and less space than usual will also call for particular discipline to ensure that everybody has the opportunity to follow the Committee's work physically by our side. As we experienced last year, we can count on the expertise and assistance of the Office to ensure the participation of all delegates in our work.
49. Like last year, the online participation of delegates from all over the world also imposes restrictions on us in terms of working schedules. However, these schedules have been extended to give us more time than we had at the previous session. The only departure from our usual programme of work is that it will not be possible to hold evening sittings this year. However, the fact remains that this will put pressure on our time management and will thus once again impose restrictions on speaking time.
50. Such restrictions on speaking time unfortunately detract from the richness of our debates and the full participation of the delegates in our work. However, this was a necessary compromise to be able to maintain as many of our activities as possible under the special circumstances which we are facing this year. To ensure that the work goes ahead smoothly, it will be essential that everybody observes these rules.
51. As with the adjustments last year, the current adjustments are exceptional and form part of the particular context that we are still facing today. They should not be regarded as a precedent when our Committee resumes its normal *modus operandi*. And even though the colossal challenge of organizing a totally virtual Conference was handled with great success last year, organizing a hybrid Conference appears to be just as massive a challenge, and maybe even more so. On behalf of the Workers' group, I would already like to thank all those involved in enabling us to meet this challenge.
52. As regards the list, these exceptional discussions on our working methods have led us again to discuss the number of individual cases which we would be able to examine in the course of our work under these exceptional conditions. It appeared that the only compromise possible was the analysis of 22 individual cases. The Workers' group insists that this should be the last time that the number of cases examined by our Committee is reduced. Over a three-year period, a total of 31 cases has missed out on examination by our Committee. In a context where the observance of international labour standards is particularly under pressure, this is clearly a cause for great concern.
53. As in the case of the other working methods, the exceptional reduction in the number of cases to 22 is an exceptional measure taken to respond to the unusual circumstances that we are facing this year. Even when 24 cases were selected, that was still insufficient to allow for an examination of all cases that deserved to be examined by our Committee. The reduction in the number of cases examined to 22 underlines this state of affairs. According to the information at our disposal at this stage, it appears that we must already deplore the fact that some governments will not be present at the Conference, thus preventing us from undertaking a substantive examination of their cases. I therefore appeal to the Office to take all possible steps to ensure that these governments appear before our Committee before the end of its work.
54. Allow me to say a few words on certain cases which were on the longlist and are the source of major concern for the Workers' group.

55. The situation in the Philippines remains particularly worrying. This is especially true because there has not been the slightest positive change in this situation over many years despite the numerous initiatives taken by our Organization. The situation of human rights and fundamental rights at work in the country continues to deteriorate, marked by intimidation, threats of harassment and anti-union practices, as well as the practice of “red-tagging” and extrajudicial executions of trade union leaders. This situation is also marked by institutional failures in terms of investigation and prosecution, thus exacerbating a culture of impunity for the perpetrators of these crimes, which allows numerous systematic attacks to happen on the trade union movement in the country. We insist that the Government gives strong undertakings and puts specific actions in place further to the high-level tripartite mission decided upon in 2019 and finally due to take place next September.
56. In Colombia, we are bound to note persistent attacks on the right to collective bargaining. Numerous anti-union practices and discrimination towards trade unions are occurring in order to obstruct the freedom to engage in collective bargaining. Even more alarming is the fact that trade unionists are exposed to serious violence. We are bound to deplore the killings, attempted murders and numerous death threats towards them. All of this is happening without any firm response from the authorities to these grave violations of freedom of association.
57. Egypt is also not free from these failings. The right to collective bargaining is severely obstructed there. In Guinea-Bissau too, numerous actions are necessary to fully guarantee the right to collective bargaining. The situation in Lebanon is also cause for deep concern for the Workers’ group. Migrant domestic workers are particularly exposed to forced labour practices. Lastly, in Haiti, the major political instability of recent years and the serious poverty faced by Haitian society are creating an alarming situation on the ground in terms of respect for fundamental rights and freedoms.
58. We hope that positive action will be taken in these Member States to resolve the serious problems noted in the report of the Committee of Experts. At all events, the Workers’ group will follow developments in these countries very closely and will be mobilized to support the workers and their representatives with regard to the difficulties that they are facing in these countries.
59. **Employer members:** We agree with the Worker members that we are under time restrictions given the hybrid nature of the work of our Committee this year, and this has limited the number of cases that we could meaningfully discuss. It has also created limits on speaking time for constituents thereby creating extenuating circumstances for the work of our Committee. We also would have liked to have heard additional cases on the shortlist, in particular, the case of the Bolivarian Republic of Venezuela. The Committee of Experts’ observation contains the strongest possible terms to highlight continuous non-compliance of that Government including reference to the fact that the Government has not yet accepted the recommendations of the ILO Commission of Inquiry issued more than two years ago. We trust that a meaningful discussion will take place at the next Governing Body based on a report that the Director-General prepared reflecting the latest developments in the country and we hope that we will finally see some meaningful progress in that matter.
60. We would also have liked to have discussed the case of Plurinational State of Bolivia regarding the Minimum Wage Fixing Convention, 1970 (No. 131). This case concerns the absence of consultations with employers’ organizations as well as the inadequacy of the criteria used when fixing the minimum wage. The Government did not follow up on the Committee’s conclusions from last year regrettably. The Employer members trust that the Government will

accept the direct contacts mission, avail itself of ILO technical assistance and provide information to the Committee of Experts before 1 September and that it will do so after having consulted with the most representative employers' and workers' organizations.

61. In addition, the Employer members would have liked to have seen cases of progress being discussed within the shortlist of cases. In our view, the supervisory system should discuss and contribute to improvement in the application of ILO Conventions including the discussion of best practices exhibited in Member States as well as focus on issues of non-compliance. We believe that this would be an important opportunity for governments to learn and grow in respect of their compliance and application of international labour standards if we could also discuss cases of progress. We look forward to working together effectively within the extraordinary circumstances and the continued hybrid format that we are engaged in today.

## B. General questions relating to international labour standards

### Statement by the representative of the Secretary-General <sup>4</sup>

62. As the representative of the Secretary-General for your Committee, I would like to welcome you to this International Labour Conference. In the exceptional context of continuing challenges linked to the COVID-19 pandemic, the International Labour Conference, including your Committee, is meeting in a hybrid format combining in-person attendance and remote participation by videoconferencing technology. Special arrangements had to be introduced to make this possible. I would like to welcome the delegates who were able to join us in person in Geneva and greet those who participate online. My team and I stand ready to provide you with all necessary assistance to ensure that the Committee functions as smoothly as possible once again this year. At the outset, I wish to acknowledge Judge Graciela Dixon-Caton, Chairperson of the Committee of Experts, and Professor Evance Kalula, Chairperson of the Committee on Freedom of Association who will address your Committee this morning in order to present the annual reports of the respective supervisory bodies that they represent. My brief intervention will cover two main points: (i) the constitutional mandate and work of your Committee; and (ii) the ILO's normative work.
63. Your Committee is a standing committee of the International Labour Conference. It has met every time the International Labour Conference has been in session since 1926 and its mandate, which lies at the heart of the ILO's action, consists of examining and bringing to the attention of the plenary of the Conference:
- (i) the measures taken by Members to comply with their obligations to communicate information and reports under articles 19, 22, 23 and 35 of the ILO Constitution and to give effect to the provisions of Conventions to which they are parties; and
  - (ii) the information and reports concerning Conventions and Recommendations communicated by Members in accordance with article 19 of the Constitution. Under the terms of this article, your Committee examines at every session of the Conference, a General Survey on the law and practice of Member States in a specific area.
64. This year, your Committee has before it the report produced by the Committee of Experts at its 92nd Session (November–December 2021) along with the 2022 General Survey entitled *Securing decent work for nursing personnel and domestic workers, key actors in the care economy*. These documents form the basis of your Committee's work. You are likely to explore once again

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<sup>4</sup> ILC, 110th Session, Committee on the Application of Standards, [CAN/D.3](#).

this year the impact of the COVID-19 pandemic on employment and decent work including in frontline sectors such as nursing, care work and domestic work, in which women are over-represented and non-standard forms of employment are practised. Your discussion on this year's General Survey will be particularly relevant and timely in light of the fact that the Governing Body decided to place on the agenda of the 112th Session (2024) of the Conference an item on decent work and the care economy for a general discussion.

65. The Committee also has before it this year the report of the 14th Session of the Joint ILO/UNESCO Committee of Experts on the Application of the Recommendations concerning Teaching Personnel (the Joint Committee). Established in 1967 after the ILO and UNESCO adopted a far-reaching Recommendation concerning the Status of Teachers (1966), the Joint Committee meets every three years to review major trends in education and teaching, and to make relevant recommendations to the ILO Governing Body and the UNESCO Executive Board. The Joint Committee's report is submitted to the ILO Governing Body with a request that it be transmitted to the Conference Committee.
66. Now, a few words about the work of your Committee. Document D.1 details all the adjustments that will allow your Committee to discharge its constitutional obligations within the framework of a hybrid session with a reduced number of sittings. These exceptional adjustments reflect the outcome of the informal tripartite consultations on the Committee's working methods which took place on 7 April and 23 May this year. Detailed information on these consultations is available on the [Committee's web page](#). I invite you to read document D.1 carefully in order to facilitate your participation and the proper conduct of the Committee's work.
67. The Chairperson will provide more information in this regard. Given that speaking time will be limited, I invite those delegates who so wish, to communicate written statements to the Office sufficiently in advance so that they can be released on the Committee's web page 24 hours before the sitting. These statements will be translated and included in the Committee's report in the three working languages. Written statements submitted will be clearly differentiated in the Committee's report from oral interventions made during the discussions.
68. In order to organize the discussion of cases of serious failure to report this year, the governments concerned were invited to communicate written information in advance and three governments have done so. A document compiling this information along with the general remarks of the Employer and Worker spokespersons, has been published in the three languages on the Committee's dedicated web page. During the sitting, the governments concerned may, if they wish, present information concerning new developments, with a reduced speaking time, before the Employer and Worker spokespersons present their final remarks.
69. Once again this year, based on the consensus reached during the informal tripartite consultations of 7 April and 23 May 2022, the adoption of the final list of "individual" cases to be discussed by the Committee has been scheduled at today's opening session. This year, the Committee will examine 22 cases as indicated in the provisional working schedule (document D.0). The Officers and the Office will introduce reasonable adaptations to the usual practice of planning the discussion of individual cases following an alphabetical order, taking into account the different time zones and the complexity of the cases to be examined.
70. Just like last year and due to the tight working schedule, all conclusions to the examination of "individual" cases will be adopted in two dedicated sittings at the end of the Committee's session. As a result, it will not be possible to reflect the conclusions on the examination of "individual" cases in the first part of the report as per the usual practice. The conclusions will

nevertheless be integrated in the second part of the report at the end of each individual case to which they relate.

71. In addition to this year's special arrangements, allow me to recall the many improvements made to the methods of work of your Committee since 2006 which are reported in detail in document D.1. I would like to recall in particular that governments on the longlist of individual cases were able to submit, on a purely voluntary basis, written information to the Committee on recent developments not yet examined by the Committee of Experts. This year, 16 governments have taken advantage of this opportunity and have provided information which is available on the web page of your Committee. If a case is included in the final list of cases to be discussed at the Committee, any additional written information that governments may wish to communicate should reach the Office at least two days before their case is discussed so that it can be translated and posted on the Committee's web page 24 hours before the discussion.
72. Furthermore, following recent practice, the discussions of your Committee will be reproduced in extenso in verbatim transcripts. The first part of the Committee's report will consist of a consolidated document in three working languages which will be presented for adoption to your Committee's final sitting. Both Parts One and Two of your report will be submitted to the plenary sitting of the International Labour Conference for adoption on Saturday, 11 June. The full report translated into the three languages will be made available online 30 days after its adoption by the International Labour Conference.
73. As this Conference is organized in a hybrid format, all documents will be produced in electronic format only and released on the Committee's web page which will be our means of sharing important documents and complementing the oral proceedings of the Committee.
74. In the second part of my intervention, I wish to present to you an overview of the standards-related activities since your previous session. This is the first session of your Committee since the International Labour Conference adopted a [Global Call to Action for a human-centred recovery from the COVID-19 crisis that is inclusive, sustainable and resilient](#) (Global Call to Action). Together with the [ILO Centenary Declaration for the Future of Work](#), the Global Call to Action places the ILO's normative work at the heart of human-centred recovery, reaffirming that international labour standards and the ILO supervisory mechanism play an essential role in safeguarding social cohesion and universal peace, reinforcing resilience and finding a better normal on the way out of the crisis caused by this global pandemic. In the words of the ILO Director-General, the Global Call to Action places "before us the task of building a future of work which tackles the injustices that the pandemic has highlighted".
75. The Global Call to Action relates to the ILO's normative mandate at both national and multilateral levels. At the national level, it covers measures to be taken by national governments and their employer and trade union social partners, to achieve an inclusive job-rich recovery that substantially strengthens worker and social protections and supports sustainable enterprises. In particular, it calls for "the promotion of legal and institutional frameworks based on international labour standards, including fundamental principles and rights at work, and a particular emphasis on occupational safety and health in the light of the experience of the COVID-19 pandemic" and notes developments in the areas of child labour, discrimination, occupational safety and health and social protection, including social security. At the multilateral level, the Global Call to Action calls for ILO leadership in promoting increased policy coherence to achieve a human-centred recovery that is inclusive, sustainable and resilient, and support for its implementation.

76. In its latest report, the Committee of Experts welcomes the adoption of the Global Call to Action and encourages the Office to engage with the UN system with a view to ensuring that international labour standards, including supervisory body comments, continue to inform the recovery process in consonance with the UN human rights mechanisms. It notes that in light of the disruptive impact of the pandemic on the world of work, as well as unprecedented transformational pressures arising from climate, digital and demographic factors, it is crucial for its own effectiveness and authority, for it to be able to focus on the application of standards that are the most up to date and address the changing patterns in the world of work.
77. Since the Committee's last meeting in June 2021, 52 ratifications of ILO Conventions have been registered confirming the continuing commitment of Member States to engage in a multilateral system of cooperation based on international labour standards in pursuit of social justice, including in times of crisis. Forced labour, violence and harassment in the world of work and occupational safety and health were the lead normative areas attracting ratifications.
78. The discussion taking place at this International Labour Conference on inclusion of occupational safety and health in the fundamental principle and rights at work framework is likely to result in the designation of a number of occupational safety and health instruments as fundamental, something which should prompt further tripartite reviews of national ratification records in this domain, which has been placed under the spotlight during the COVID-19 pandemic.
79. Allow me to conclude this section by recalling that in 2023, your Conference will hold a general discussion on just transition towards environmentally sustainable economies and societies for all. The rethinking of industrial policy and technology and the measures needed to ensure that the transformational changes upon us leave no one behind, are likely to draw heavily on our normative heritage.
80. Work is continuing to reinforce the standards work of the ILO in its second century based on a body of standards that is robust, clear and up to date, and a system of supervising their application that is authoritative and transparent, based on strengthened tripartite consensus. Of the 235 international labour standards included in the initial programme of work of the Tripartite Working Group established under the Standards Review Mechanism (SRM TWG), 63 instruments remain to be examined. After a one-year postponement due to the COVID-19 pandemic, the SRM TWG met for the sixth time in September 2021 and completed its review of the comprehensive sectoral social security instruments and the instruments concerning unemployment benefit and medical care and sickness benefits. While it made consensual recommendations on the comprehensive sectoral instruments and the instruments concerning medical care and sickness benefits, it made no recommendations following its review of the instruments concerning unemployment benefits. Its seventh meeting will take place in September 2022.
81. In the meantime, the Special Tripartite Committee of the Maritime Labour Convention, 2006, as amended (MLC, 2006) concluded in April 2021 its review of the status of maritime labour standards concerning seafarers, which were referred to it by the SRM TWG. Its recommendations were followed up by the Governing Body at its 343rd Session (November 2021) and placed an item on the agenda of the 111th and 118th Sessions (2023 and 2030, respectively) of the International Labour Conference concerning the abrogation and withdrawal of most of the instruments classified as outdated. It also requested the Office to launch an initiative to promote the ratification on a priority basis of the MLC, 2006, among the countries still bound by the outdated Conventions.

82. With regard to the implementation of the work plan on the strengthening of the supervisory system, the Governing Body continued its consideration of further steps to ensure legal certainty at the 344th Session (March 2022) of the Governing Body and settle disputes relating to article 37 of the ILO Constitution. This discussion will take place in March 2023 at the 347th Session of the Governing Body.
83. Allow me to turn now to the important question of Office technical assistance focused on the achievement of tangible progress in the implementation of standards at the national level, guided by the comments of the ILO supervisory bodies. In line with previous decisions taken in the framework of informal tripartite consultations on the Committee's working methods, the Office regularly places on your Committee's web page information on the measures taken by the Office to give effect to the recommendations of your Committee. As can be seen from this information, the Office succeeded in making up for the delay caused by these travel restrictions and has followed up on almost all conclusions and recommendations reached by your Committee at its 2019 and 2021 sessions.
84. Furthermore, the Office continued to provide reinforced assistance on reporting, including to Member States which find themselves in serious failure to comply with their reporting obligations. Some of these Member States have since fulfilled their reporting obligations, at least in part. The Office, in collaboration with the International Training Centre of the ILO in Turin, continued to deliver capacity-building activities at a distance through online courses. The International Labour Standards Academy has adopted a regional focus in order to reach out to as many participants as possible from a selected region while ensuring more targeted discussions, including the sharing of good practices, among countries with geographical, economic and legal ties. As a result, the third regional International Labour Standards Academy was delivered in 2022, at a distance, to 70 participants from Asia and the Pacific region, including tripartite constituents, judges and law professionals. The Turin Centre is also providing tailored training on international labour standards to the constituents and other stakeholders such as judges and labour inspectors in all regions.
85. As a result of this targeted assistance, reporting to the Committee of Experts which had declined sharply in 2020 in the context of the COVID-19 pandemic, largely recovered to even exceed pre-COVID-19 levels. Still, the Committee of Experts expressed concern at the fact that only 41.9 per cent of reports due were received by the 1 September deadline. The Office is following up in collaboration with the regional offices and the Turin Centre in order to sensitize Member States on the need to submit reports on time.
86. In the framework of the ILO's Development Cooperation Strategy 2020–25 and the Programme and Budget for 2022–23, the Office has continued to consolidate its current partnerships and is exploring initiatives to strengthen links between standards and development cooperation even further. Hence, in the framework of the UN Secretary-General's Call to Action for Human Rights, the ILO joined the Human Rights Mainstreaming Trust Fund Steering Committee in order to reinforce partnerships and alliances for the promotion of international labour standards and human rights. The Surge Initiative partially supported by this Trust Fund, is a good example of potential synergies that can be created between international labour standards and human rights through greater collaboration within the UN system. These types of initiatives allow the ILO and its three constituents to support human rights at work within UN Country Teams through their own normative instruments and supervisory processes.
87. Before I conclude my statement, a special mention to the situation of seafarers in the context of the COVID-19 pandemic and of those affected by the crisis unfolding in the Black Sea and the Sea of Azov. In its latest report, the Committee of Experts reiterated its deep concern

regarding the challenges and the impact that restrictions and other measures adopted by governments around the world to contain the spread of the COVID-19 pandemic have had, and continue to have, on the protection of seafarers' rights as laid out in the MLC, 2006. The Committee recalled that its [General observation on matters arising from the application of the Maritime Labour Convention, 2006, as amended \(MLC, 2006\) during the COVID-19 pandemic](#), adopted in 2020, remains applicable in its entirety. It urged all ILO Member States to designate and treat seafarers as "key workers", to facilitate crew changes, provide access to medical care ashore when needed, and prioritize seafarers for vaccination. The Office continues to work and to spare no effort to ensure that the dire situation that seafarers faced does not repeat itself in the future and that the remaining current difficulties are resolved. Most recently, the [Special Tripartite Committee of the MLC, 2006, held its fourth meeting \(Part II\)](#) in May bringing together around 500 representatives of governments, and organizations of seafarers and shipowners. Drawing from lessons learned during the COVID-19 pandemic, stakeholders in the global shipping industry have adopted amendments to the MLC, 2006, to improve the living and working conditions of seafarers. The amendments were presented for approval to this session of the International Labour Conference and, if approved, they should enter into force by December 2024. Meanwhile, the ILO registered the 100th ratification of the MLC, 2006, in April 2022, reaching a global milestone in the efforts to guarantee universal respect of seafarers' rights and a level playing field for shipowners.

88. This concludes the short overview of the standards-related activities carried out since the previous session of your Committee and I trust that you found it interesting. At the very least, it demonstrates the drive and relevance of the Organization's standards-setting mandate. To conclude by echoing your opening speech, Chairperson, I would like to assure you that the International Labour Standards Department will place all its expertise at the service of your Committee so that it may play its pivotal role within the ILO's constitutional framework. This year, Ms Karen Curtis, Chief of the Freedom of Association Branch, and Mr Horacio Guido, Chief of the Application of Standards Branch, will once again accompany me in guiding the secretariat of your Committee, and I extend my thanks to them.

### Statement by the Chairperson of the Committee of Experts

89. On behalf of the Committee of Experts, I welcome the invitation that has been made once again to attend your discussions at this 110th Session of the International Labour Conference. This is a very positive practice, which has been developed since the 1990s. This direct contact with the Conference Committee undoubtedly allows me to share first hand some of the outcomes of our work to reply to your questions on the reports that we prepare and, in return, to transmit to my colleagues in the Committee of Experts the content of your discussions and your concerns. The visit by the Employer and Worker Vice-Chairpersons during the meeting of our Committee contributes to this interesting exchange, and adds to the complementarity of our Committees, both of which are dedicated to ensuring full compliance with international labour standards.
90. In this respect, it is appropriate to indicate that the Committee of Experts has viewed positively the request made by the Government members of the Conference Committee to enable an exchange with the Committee of Experts in a special session. The necessary measures will be taken to follow up that request. I am pleased to note the presence in Geneva this year of many delegates to the International Labour Conference. This offers proof that slowly the action to combat the COVID-19 pandemic has started to bear fruit and that, although physical presence is not absolute, as certain delegates are participating virtually in the discussions, a significant number have been able to come to the ILO headquarters. In 2021, the Committee of Experts



also held its meeting in hybrid format, which allowed us to complete all our work. Nevertheless, it is important to emphasize that, even though medical action to combat the COVID-19 pandemic has been positive and offers hope, the pandemic is continuing to have a strong impact and serious consequences on the world of work. As can be seen in our report, in view of the effects of the pandemic, we consider it appropriate to reiterate that: first, the crisis does not suspend obligations under ratified international labour standards; second, consistent with lawful measures to protect the health of the public, every effort should be made to prevent a downward spiral in labour conditions; and third, social dialogue is critically important in all aspects of the development, implementation, monitoring and review of COVID-19 policy responses to ensure that these are grounded in respect for rights at work, tailored to national circumstances and benefiting from local ownership.

91. In its report, the Committee also welcomed the adoption by the International Labour Conference in 2021 of the Global Call to Action for a human-centred COVID-19 recovery, in which Member States commit to reinforcing respect for international labour standards, and to promoting their ratification, implementation and supervision, with particular attention to areas where serious gaps have been revealed by the crisis.
92. In its examination of the effects of the crisis, the Committee of Experts has expressed particular concern at the fact that vulnerable groups are exposed to the worst effects of the pandemic, including in particular women, young workers, migrant workers, persons belonging to racial, ethnic and linguistic minorities, older workers, domestic workers, indigenous and tribal peoples, persons living with or affected by HIV and AIDS, and rural workers. In this context, in our 2022 General Survey, the Committee emphasized the overriding importance of securing decent work for nursing personnel and domestic workers, who are key actors in the care economy. In line with this reflection, the General Survey covers four instruments related to decent work for workers in the care economy, namely: Convention No. 149 and Recommendation No. 157, and Convention No. 189 and Recommendation No. 201. In addition to the topicality of the subject, as care work is undertaken predominantly by women, special attention has been paid to the gender dimension. Convention No. 149 was adopted with a view to addressing the critical shortage of nursing personnel at the global level. However, many of the principal concerns that led to the adoption of Convention No. 149 still persist, such as long hours of work required by shift work within inconvenient timetables; ongoing shortage of personnel; low wages; inadequate protection of occupational safety and health; high incidence of violence and harassment; and lack of training and opportunities for professional development. All of this intensifies the ongoing shortage of nursing personnel at the global level, which has been exacerbated as a consequence of the pandemic. The situation is so dire that it is already estimated that in 2030, there will be a shortage of 15 million nurses at the global level. Thus, in the case of nursing personnel, the General Survey, compiled and presented by the Committee of Experts, examines the structural changes that have occurred in the workplace as a result of the demographic and epidemiological changes, as well as of globalization and technological innovation.
93. On this basis, the Committee of Experts emphasized the urgent need for adequate public and private investments and coordinated measures, in consultation with the social partners and stakeholders, to address the current and projected shortage of nursing personnel. Furthermore, such measures should take into account international labour standards.
94. The General Survey also took note of the significant progress achieved since the adoption of Convention No. 189 more than ten years ago, given the growing number of domestic workers covered by social protection and national labour laws. Nevertheless, the Committee underlined that it is still the case that national laws and regulations, whether general or specific, do not

always afford domestic workers the same rights and protection as other workers, and therefore emphasized that further efforts are needed to ensure the full application at the national level of the principles of the domestic work instruments.

95. The Committee of Experts trusts that the exhaustive analysis that we have carried out, both of legislation and practice in relation with the instruments under examination, will be useful for the constituents in elaborating and effectively applying measures to improve the situation of nursing personnel, as well as of domestic workers and other workers in the care economy. We also trust that it will serve as a useful instrument to contribute to strengthening the efforts of the ILO in general, and the Committee on the Application of Standards in particular, to promote respect of labour rights and ensure access to decent work. In this spirit, during my attendance at the Conference, I will pay close attention to the discussions that are held on the General Survey and convey them to my colleagues.
96. In a world in crisis and put to the test by natural disasters, a pandemic that devastated millions of lives, businesses and work posts, a world shaken by wars with unimaginable consequences, that is to say, the world in which we live today, the application of international labour standards is not only relevant but also imperative to safeguard respect of human rights at work, which is especially important when developing the responses for recovery. For this reason, the Committee emphasized in its report that, for human rights to be a means to resolve problems, it is essential to give effect to the full range of civil, political, economic, social and cultural rights, as well as the international labour standards that give expression to each of these rights, to their full extent. Let us not lose sight of the fact that international labour standards complement international human rights law by adding key dimensions that facilitate the obligation of States to respect, protect and realize the human rights at work of all persons within their territory and/or jurisdiction. In this context, the Committee invited the United Nations treaty bodies to a joint reflection on ways to strengthen synergies and complementarity with the Committee of Experts, based on the respective and distinct mandates of each body.
97. Before I conclude, allow me to refer to a subject of interest to you. In 2021, aware of the importance of modernizing and adapting its working methods, and with the aim of improving constructive dialogue with Member States in order to achieve clearer, and more concise and practical communication of its recommendations, the Committee of Experts decided to incorporate the use of hyperlinks in its report. One of the practical aspects of this tool is that it allows readers to refer, among others, to our previous comments and General Surveys, as well as to the general observations. The Committee of Experts also decided to increase the visibility of the urgent appeals through the introduction of summary tables in the General Report, indicating those examined at its meeting and those prepared for its following meeting. Acknowledging the collective input and efforts, the Committee welcomes the initiative of the constituents to provide the Office with modern means that allow us to digitally process the files, which results in greater progress when carrying out our work, particularly during the period leading up to our session in Geneva.
98. As I reach the end of my presentation, allow me to recall that the Committee of Experts continues to perform its tasks with the greatest sense of responsibility, impartiality and objectivity, in the fulfilment of its mandate. I am aware that there are many topics covered in our report. I am entirely at your disposal and conclude by wishing you fruitful meetings.

## Statement by the Chairperson of the Committee on Freedom of Association

- 99.** It is an honour and a privilege for me to come once again before your esteemed Committee to report on the activity of the Committee on Freedom of Association. We last met in June 2021 and, since then, the Committee on Freedom of Association has issued its fifth annual report covering the year 2021.
- 100.** I would like to recall that the role of the Committee on Freedom of Association is to examine complaints of violations of freedom of association regardless of ratification of the relevant freedom of association Conventions. The object of the complaint procedure is not to blame governments, but rather to engage in a constructive tripartite dialogue to propose avenues to ensure the respect of freedom of association in law and practice. As freedom of association is a fundamental right which must be ensured for both workers' and employers' organizations, the Committee had the occasion last year to examine two complaints brought by employers' organizations, while allegations received over the year globally covered both the public and the private sectors. Easily accessible graphics and statistical data in this year's annual report provide useful information on the work of the Committee, further enabling comparisons over time. The annual report and its presentation to your august body fulfils an important objective of the Workers' and Employers' groups' 2015 joint statement to support the complementarity of our two Committees while avoiding duplication of procedures.
- 101.** The annual report outlines, among other information, the types of allegations that came before it most often. In 2021, these were: trade union rights and civil liberties; protection against acts of anti-union discrimination; and violation of collective bargaining rights. In 2021, the Committee on Freedom of Association examined 52 active cases and 22 cases concerning the effect given to its recommendations through its follow-up procedure. While a lot remains to be done, it is my pleasure to inform you that there has been important progress noted by the Committee on Freedom of Association with interest or satisfaction during this period. The progress noted has encompassed a variety of measures including, for example, the registration of unions, the granting of trade union status to trade unions, legislative amendments to further freedom of association, the signing of collective agreements, the withdrawal of a legal action that sought the dissolution of a union, the strengthening of social dialogue and the role played by national tripartite committees in monitoring the steps taken in relation to acts of anti-union violence. I invite you to consult the report which contains tables and graphs on the cases of progress by the type of allegations as well as on the cases of progress by region.
- 102.** Aware of the fact that ILO technical assistance is a critically important tool for governments and social partners alike to resolve outstanding matters, in 2021, the Committee on Freedom of Association offered ILO support in five cases.
- 103.** In order to ensure complementarity while avoiding duplication, the Committee often transmits the legislative aspects of cases where governments have ratified the relevant Conventions to the Committee of Experts. In 2021 – comparable to the numbers covering two previous years – this practice was used in eight cases. This also ensures a pertinent dialogue between the Committee on Freedom of Association, a complaints-based procedure, on the one hand, and the Committee of Experts and your Committee, on the other. The regular review provided by the Committee of Experts and your august body provides an important key to ensuring sustainable progress in respect for freedom of association around the globe.
- 104.** The engagement over the years with the Committee's procedures demonstrates that the work of the Committee on Freedom of Association is well known and appreciated as an authoritative voice for identifying shortcomings and finding workable solutions, promoting social dialogue

at national level for full resolution. Just last year, the Committee on Freedom of Association further adjusted its methods of procedure to further promote that space for crucial national dialogue when the parties to a complaint agree. I look forward to reporting to you in future sessions the successes and lessons learned.

- 105.** I am very proud of the work of the Committee, which over these past two years has fully assured the achievement of its mandate, despite difficult circumstances. I would like to underline the commitment of all Committee on Freedom of Association members to ensuring that its outcomes are constructive and useful to governments and their social partners. I am honoured to chair the Committee and, in that role, to make my own contribution to its work. As your Committee begins its important work, may I extend my sincerest wishes for a constructive and fruitful debate that will further bolster the achievement of our common objectives.

### Statement by the Employer members

- 106.** On behalf of the Employer members, I want to begin by welcoming Ms Graciela Dixon-Caton, the Chairperson of the Committee of Experts, to our session. We value her presence and the opportunity to continue to engage in dialogue with the Chairperson of the Committee of Experts and, by extension, the entire Committee of Experts.
- 107.** While the Committee managed to operate virtually during the pandemic last year and this year, it is now time to gradually re-establish the regular in-person discussions. Unfortunately, this year, it is not possible to lift all COVID-19 restrictions and have a completely in-person Conference. In particular, the Committee meeting time is shortened and the time limits for speakers will continue to be in place. As we have discussed in our introductory comments earlier, as a result, the work programme has had to be adapted, with a slight reduction of the number of cases to be discussed, proportionate to the shortening of working hours. We trust that, as of next year, the Committee will be, hopefully, fully back to normal operations.
- 108.** I would like now to turn to some points that the Employer members consider important for the work of the Committee. First, the Employer members note that this year's report of the Committee of Experts, was almost 900 pages and is one of the most comprehensive in recent years, containing 525 observations. In addition, the Committee of Experts made 1,031 direct requests which are not contained in the report itself. It appears from this that there is significant non-compliance with ratified Conventions. In the Employer members' view, this gives rise to questions regarding Member States' approach to ratification of ILO Conventions and their application. Do Member States make thorough preratification assessments of compliance and changes necessary to ensure compliance? Have the national social partners, including representative and independent employers' organizations, been adequately consulted in this decision-making, and have their views and needs been taken into account in the planning of ratification and implementation? If so, has the Member State followed the outcomes of preratification assessments and developed action plans to ensure correct implementation prior to ratification? Have Member States also made sure they have the necessary capacity to comply with reporting obligations? In the Employer members' view, ratification should occur once the correct application can be assured, ideally in a way that accommodates the needs of the tripartite constituents in a country including, from our perspective, the needs of the employers and sustainable enterprises. The high number of Committee of Experts' comments suggests to our group that this is not often the case, that ratifications appear to be premature or made without proper preratification assessments or that the outcome of preratifications are not properly considered. It seems important that the Office, in its promotional activities on ILO Conventions, advises constituents to take a careful

and deliberate approach to ratification. In our view, ratification cannot be rushed. It should occur at the end of a process ensuring compliance, not at the beginning. It is important to remember that ratification is a treaty under international law that carries compliance obligations. The Employer members are of the view that if ratification was addressed in a consistent and compliance-oriented manner, application of ratified Conventions could be much improved. As a result, the supervisory system would be less burdened and could focus on more serious cases.

- 109.** Second, we would recall once more that the ILO Centenary Declaration states that: “International labour standards also need to respond to the changing patterns of the world of work, protect workers and take into account the needs of sustainable enterprises, and be subject to authoritative and effective supervision”. We believe that if international labour standards are to be responsive to the world of work in this way, the ILO standards supervisory system has a major role to play in – and contribute to – this. The changing patterns of the world of work, the protection needs of workers and the needs of sustainable enterprises of employers must be guiding principles in ILO standards supervision. In particular, the needs of sustainable enterprises, in our view, seem to be often neglected and should be given more attention and visibility in the assessments of the Committee of Experts. This could improve the balance of the observations rendered and thus the acceptance of the findings and recommendations of standards supervision.
- 110.** Third, the Employer members must come back to the issue of the distinction between direct requests and observations in the Committee of Experts’ report. We observe once again that the explanations provided by the Committee of Experts in paragraph 89 of its report is helpful. Nevertheless, we remain concerned that the Committee of Experts makes numerous substantial assessments of compliance in the form of bilateral direct requests. By doing so, given that direct requests are not discussed in the Conference Committee and lack transparency, the Committee of Experts excludes a major part of their standards supervisory work from tripartite scrutiny in this Committee. We, therefore, once again request that the Committee of Experts make any comments that contain assessments of compliance, whether based on a first or a later government report, and that are not mere requests for information or clarification, in the form of observations. Alternatively, we would propose that the Committee of Experts discontinue issuing direct requests and only issue observations. The report could be made available online only, due to its length. Mere requests for clarification or additional information could be obtained by the Office via email from the governments concerned, without the need for the Committee of Experts to be involved and without the need to make a formal direct request. In our view, this would make the difference between preparing the information for standards supervision, on the one hand, and the supervisory system, on the other, more transparent. In this way the Conference Committee could be fully involved in all aspects of standards supervision, which is currently limited due to the exclusion of direct requests.
- 111.** Fourth, we would like to request that the Committee of Experts provide clear explanations for each double-footnoted case in the report as to why it has been proposed in this way. We believe giving additional context would be helpful to continue to increase the transparency in the identification of these cases.
- 112.** I would like to now turn to some comments that the Committee of Experts has made in observations regarding the promotion of collective bargaining under Article 4 of the Right to Organise and Collective Bargaining Convention, 1949 (No. 98). This concerns the question, “who has the right to collective bargaining?”. According to Article 4, this is employers or employers’ organizations and workers’ organizations. Organizations of other persons such as

independent contractors or self-employed are not workers' organizations and therefore not entitled to collective bargaining. It is therefore important that clear criteria and procedures are in place that allow the determination of who is a worker and who is a self-employed person or an independent contractor to be done at national level. In the absence of rules in this regard, in Article 4, the competence for establishing such criteria and procedures lies exclusively with Member States. On the level of collective bargaining, Article 4 does not specify or prioritize a particular level, in other words collective bargaining at every level is equally protected by Article 4 of the Convention, including at national level, sectoral level or company level. Therefore, while governments have an obligation to promote collective bargaining, the choice of the level of bargaining is up to the social partners. On the question as to whether Article 4 provides for a hierarchy of norms, in which collective agreements cannot depart from applicable legislation, and individual labour contracts cannot depart from applicable collective agreements, we note that Article 4 does not address this issue at all. Therefore, as long as governments comply with their obligation to promote collective bargaining, in our view it is at their discretion to establish a hierarchy of norms or to modify it respectively. Another question that has come up, in a number of cases in the Committee of Experts' observations, is whether there is a legal obligation for employers to negotiate under Article 4. The Committee of Experts seems to answer this question in the affirmative as long as there is no obligation to conclude a collective agreement. The Employer members do not agree with this given that Article 4 clearly refers to voluntary negotiation. Finally, in certain circumstances, the Committee of Experts has considered compulsory arbitration on the initiative of a workers' organization to be in line with the obligations in Article 4. The Employer members respectively cannot see the justification for this view given that Article 4 is based on the voluntary nature of collective bargaining at the very heart of the obligations under this Convention. Therefore, the Employer members respectfully request the Committee of Experts and the Office that supports the work of the Committee of Experts to consider carefully the wording of Article 4 of Convention No. 98 and the flexibility afforded by this provision in order to allow governments and social partners in Member States to find ways of implementation that are in line with their national circumstances and needs. We consider this all the more important in light of the changing world of work.

- 113.** With respect to the question of the Committee of Experts' assessment on the right to strike, in the context of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), we note that in their last report, out of the 52 observations on this Convention, 41 dealt in one way or another with the issue of the right to strike. Out of these 41 observations, a number dealt exclusively, or almost exclusively, with the question of the right to strike, such as in the cases of Belize, Congo and Germany, among others. Out of the 38 direct requests, 33 deal in one way or another with the right to strike. Therefore, the Employer members believe it is important to note and recall that the Government group of the Governing Body expressed the view that the conditions and practices of the right to strike are to be defined at national level. The Employer members recognize that strike action is a real issue in the world of work and that countries have established specific legislative processes and practices to deal with this issue. Therefore, we have concerns regarding detailed assessments on the issue of the right to strike, which is neither contained in the text of Convention No. 87, nor in the legislative history of the Convention.
- 114.** Of course, this is not the moment to revive the Employers' group's full position on this issue but rather it is to offer a way forward and to recommend that in the Employer members' view, we remind ourselves that the solution is in our own hands. The Conference Committee, after very turbulent times, has managed to find a way forward on the right to strike issue that enables it to deliver its supervisory work. It is now for the Committee of Experts, and of course

the Office supporting the Committee of Experts, to make their contribution to this solution by adapting their assessments to help to continue to build consensus on this issue. Past experience has demonstrated that where the Conference Committee and the Committee of Experts reach converging views and recommendations or at the very least complementary views and recommendations, more positive responses are obtained from governments and social partners on the ground at national level leading to faster, better and more sustainable compliance with ILO standards both in law and practice. We must strive to move forward in this direction with solutions based on social dialogue, perhaps now more than ever.

115. In conclusion, the Employer members would like to reaffirm their commitment to the ILO standards supervisory process as a key and important governance tool in international labour and social policy. In order for standards and standards supervision to have real and lasting impact, both need to be constantly adapted to changing situations and needs. In this spirit, we look forward to cooperating with Government and Worker representatives at this session of the Conference Committee.
116. **Employer member, Argentina:** I would like to propose some improvements on the format of the Committee of Experts' report as in our view there is room for improvement in the presentation, length, and clarity of the comments of the Committee of Experts. For example, following the format of the NORMLEX case profiles, the Committee of Experts could present the information by country and not by Convention to allow an overall picture of progress or challenges in application by a Member State. Perhaps the report could also be presented in the form of a database which allows to compile information according to criteria, for example by country or group of countries. Also, the NORMLEX database could be extended to allow a search of comments by Convention so has to have all comments ever made for all countries on a particular Convention.
117. We note that consolidated comments are prepared by the Committee of Experts in areas such as occupational safety and health, social security, conditions of work and labour inspection. Would it not be convenient to extend this practice to other subject areas? We would like to reiterate our request that government reports and submissions of the social partners could be made accessible online. Finally, we note from paragraphs 9 and 21 that the Committee of Experts intended to make increased use of hyperlinks to facilitate references to previous comments, General Surveys and general observations as a way to enhance the dialogue with Member States with more clear, concise and actionable recommendations. We noted that this has only been done in Part One of the Committee of Experts' report and only to a small extent. We trust that the use of hyperlinks will be extended in the next report, including Part Two containing the observations.
118. **Employer member, South Africa:** As mentioned by the Employer Vice-Chairperson, while the ongoing pandemic has created significant challenges for the application of labour standards, it must not become an excuse for not complying with ILO fundamental Conventions. Certainly, it seems this thought is not shared by everyone. At the heart of Convention No. 98 is the right to bargain freely and voluntarily; free from compulsory arbitration and government interference. Equally important is the right of the social partners to determine the level of collective bargaining. Article 4 of Convention No. 98 does not specify or prioritize a particular level for collective bargaining. Bargaining at every level is equally protected by Article 4, including at the national level, sectoral level or enterprise level. While governments have an obligation to promote collective bargaining, the choice of the level for bargaining is up to the social partners and should not be subject to government approval nor intervention. However, this is not always the case when it comes to observing Convention No. 98. While bargaining for national industry or occupational collective documents covering all workers and employers in

that industry or occupation is within the scope of Convention No. 98, making them compulsory or restricting how the level may be determined is not. Similarly, a meeting with only one party to initiate bargaining for pay agreements and to decide whether the document is to be industry based or occupation based, as well as deciding the level, scope and coverage, falls well outside any accepted interpretation. Exactly the same can be said of rules that prohibit the ability of the parties to opt out of bargaining and require an agreement to be reached either voluntarily or through compulsory arbitration. Indeed, countries that enforce systems of compulsory arbitration which, in the absence of agreement ultimately fix the terms of agreement, cannot be said to be compliant with the principle of free and voluntary negotiation. A settlement that results in the terms of pay being fixed by an arbitration body with no right of appeal is similarly non-compliant. Equally challenging is a situation of a government that chooses to oversee the bargaining process, ensure compliance and then turn settlements into legislation. While all these actions individually or collectively are not unknown, they cannot and must not go unchallenged by this house lest the failure to do so should weaken the fabric of the standards supervisory system served by this Committee. In conclusion, we believe implicitly in the ILO standards supervisory system and therefore do not want to see it being abused anywhere. We would respectfully request that the Committee of Experts and the Office, not only fully respect the principles enshrined in Article 4 of the Convention, but also take prompt and effective action to address clear instances of departure from them.

- 119. Employer member, United States of America:** I would like to briefly amplify on the statements made earlier by the Employer Vice-Chairperson on three specific points: first, we wish to underscore how important it is for the Conference Committee, the Committee of Experts, and the Office, to fully understand the actual needs of tripartite constituents in their national contexts, and to be able to provide the tripartite constituents with practical and effective guidance for the balanced implementation of ILO standards; second, past experience has demonstrated that when the Conference Committee and the Committee of Experts reach converging views and recommendations, more positive responses are secured from governments and social partners at the national level which, in turn, leads to faster, better and more sustainable compliance with ILO standards, both in law and in practice; and third, the ILO Centenary Declaration states that “international labour standards also need to respond to the changing patterns of the world of work, protect workers, and take into account, the needs of sustainable enterprises, and be subject to authoritative and effective supervision”. We believe that if the international labour standards are to be responsive to the world of work in the way the tripartite constituents stated in the Centenary Declaration, then the ILO standards supervisory system has a major role to play and contribute to the shared vision. In other words, the changing patterns of the world of work, the protection needs of workers and the needs of sustainable enterprises must be guiding principles in ILO standards supervision. With this in mind, we believe the needs of sustainable enterprises should be given more attention and visibility in the assessments of the Committee of Experts. This could improve the balance and thus, the acceptance, of the findings and recommendations of ILO standards supervision.
- 120. Employer member, Belgium:** Belgian employers support the various ILO supervisory mechanisms. We participate in them actively. We support the principles of tripartism and social dialogue, which are the only ones capable of improving respect for fundamental social standards throughout the world and finding a balance between the three pillars – economic, social and environmental. Our principal challenge at the global level is to protect the 4 billion workers who are still excluded from basic social protection. In this regard, Belgian employers are very worried by the high proportion of the comments of the Committee of Experts to which there have been no replies. In the same way as the other ILO constituents, the Employers’ group attaches vital importance to dialogue between governments and the ILO supervisory



bodies. If a government does not respond to the requests of the Committee of Experts, it undermines its credibility and seriously prejudices the ILO as a whole. We hope that these failures to provide written information will be resolved rapidly, particularly during the examination of the 22 countries by our Committee.

- 121.** At the national level, there are also many challenges and it would be a mistake to focus on the short term and on workers who are already integrated in the labour market. In ageing countries, such as Belgium, it is essential for each new measure to help increase the employment rate. In light of the challenge of the post-COVID-19 recovery, Belgian employers support the follow-up framework through which the ILO will assess recovery strategies, without forgetting that only productive and sustainable enterprises will be able to improve employment and social inclusion. It will be necessary to take into account very different national contexts, as some have experienced significant job losses during the pandemic, while others have been able to safeguard jobs, but are facing considerable public debt, and now the explosion of wage costs as a result of the acceleration of inflation, shortages of raw materials, rocketing energy costs, and particularly shortages of labour, of which there are multiple causes. These worrying trends are holding back economic recovery. The social partners can achieve much together, although, when the government consults them on new measures or new systems, a realistic schedule and agenda would be welcome. Reiterating our call from last year, we ask national governments not to drown the social partners in an ocean of new measures that weigh them down through pressure of time and complexity, as social dialogue requires a minimum of time and many capacities to examine, consult, negotiate and develop balanced solutions. We call on the Committee of Experts to supervise in practice respect for social dialogue with a view to ensuring that it is not formal, but real and effective.

### Statement by the Worker members

- 122.** I would first like to thank the Chairperson of the Committee of Experts and the Chairperson of the Committee on Freedom of Association for their presence today, even at a distance. I believe that the contact has been very fruitful. With regard to the Committee of Experts, this occasion is supposed to offer an opportunity for a dialogue on an equal footing with our Committee. The General Report contains a certain amount of relevant and interesting information on which I would like to elaborate.
- 123.** The Worker members have noted with much interest the initiative that the Committee of Experts intends to take to intensify its relations with the United Nations concerning human rights. This approach is in coherence with the current trend for greater synergy within the United Nations system. It is illustrative of the dynamism and sense of initiative of the Committee of Experts in exploring subjects of common interest with other United Nations bodies dedicated to respect for human rights. It also forms part of the call made by the United Nations Secretary-General for action in this respect. The expertise and authority of the Committee of Experts enables it to engage in this dialogue, particularly as the ILO's standards and experience have contributed broadly to the development of human rights, and often even initiated them.
- 124.** The Worker members welcome the decision taken by the Governing Body to extend the session of the Committee of Experts in order to take into account its growing workload. We also welcome the particular attention paid by the Committee of Experts to the impact of the pandemic on workers' rights and the fact that it has made several observations on this subject.
- 125.** This moment of exchanges between the two Committees also offers an opportunity to show the diversity that characterizes the Committee on the Application of Standards in view of its

tripartite nature, and to remove any ambiguities. The Workers' group will never overemphasize the importance of preserving and reinforcing the independence of the Committee of Experts. I would like to emphasize that, in the context of the dialogue between the Vice-Chairpersons and the Committee of Experts, no one can claim the monopoly of speaking on behalf of the Committee on the Application of Standards. Only the points on which there is consensus between constituents can be expressed as such.

- 126.** Moreover, and as we have already indicated in the past, these moments of exchanges are not forums for expressing demands or dictating the conduct to be followed. In this regard, the Worker members have noted with great astonishment the list of demands that the Employer members have forwarded to the Committee of Experts. Without even entering into the details of these demands, they appear to us to be inappropriate, and even incomprehensible, in terms of both form and substance. What authority would the Committee of Experts have if it had to accede to these demands? Who would take seriously a body that was placed under the influence of a group from which it receives instructions and guidance? Seen under this light, it seems clear that these demands made to the Committee of Experts are not receivable. What is more, the incessant attacks which attempt to put the Committee of Experts under pressure do not contribute in any way to reinforcing the supervisory bodies. More fundamentally, the Worker members refute any attempt to establish any form of hierarchy between the Committee of Experts and our Committee on the Application of Standards, which are independent of each other. Words have a meaning: it is not possible to both call for the independence of the Committee of Experts and put forward proposals that deny that independence. Therefore, if everyone agrees to undertake to respect the independence of the Committee of Experts, it is necessary to be coherent and to refrain from undermining it under the pretext of seeking transparency. It is necessary to respect the mandate of the various bodies. The mission of the Committee of Experts is to assess compliance with standards in law and practice, by determining the legal scope, content and meaning of the instruments under examination.
- 127.** We must also welcome the position taken by the ILO Governing Body in March, in which it emphasizes that the resolution of issues of interpretation, on the basis of article 37 of the ILO Constitution, is fundamental in the context of the supervision of international labour standards. That is an important step in the context of the reinforcement of the authority of ILO instruments. It would appear that some want us to take the opposite path, by calling on the Committee of Experts to take into account the unilateral views expressed in our Committee on the Application of Standards. But the Committee of Experts does not need to take into account the arrangements and agreements made between the social partners in the context of the functioning of the Committee on the Application of Standards. That is particularly the case concerning the agreement on the right to strike, which allows our Committee to function, but does not in any way engage the Committee of Experts. And, in practice, in the Committee on the Application of Standards, the Employer and Worker members agree to disagree on the right to strike. Reflection and assessment are necessary of the dialogue between our Committee and the Committee of Experts in order to verify the value, pertinence and conditions under which it should henceforth be undertaken. It is only within this framework that it would be possible to speak of a respectful and productive dialogue.
- 128. Worker member, United Kingdom of Great Britain and Northern Ireland:** The Committee of Experts rightly points out that fundamental labour rights should be respected in a crisis and that their full realization contributes to solving the problems posed by crises. As in many countries, in the United Kingdom the inequalities and injustices exposed and exacerbated by the pandemic are the very same issues that trade unions address through national

campaigning and through bargaining and representation in the workplace. For example, in the United Kingdom during the pandemic, black and minority ethnic workers saw higher increases in unemployment than white workers. Women workers found themselves taking on a disproportionate burden of any additional childcare. We know that unionized workplaces in the United Kingdom through collective bargaining pay more attention to ending discrimination with more equal opportunities policies in place. We know they have better sick pay, crucial elements in keeping workers safe and better work–life balance, meaning all workers can play their part in caring for relatives. We know unionized workplaces pay better at a time of growing inequality but, despite these obvious solutions to serious problems, we do not have the supporting structure necessary to bring these benefits to the wider workforce. Without such supporting structures, at the heart of which is social dialogue and tripartism based on genuine respect for freedom of association and collective bargaining, the human-centred recovery will be an illusion for many workers. In the United Kingdom, earlier this year, a well-known ferry company fired 786 directly employed workers. It did this without even informing the union of its plan and in some cases gave workers only 15 minutes to leave a ship that was not only their workplace but also their accommodation. The unions in the ferry company had an agreement in place which the company violated in multiple ways but there is no legal protection offered to help workers in these situations and only the industrial power of the union can hope to keep the employer to their side of the agreement in such cases. In this light, it is worth emphasizing the centrality of human rights and international labour standards, including the comments of the supervisory bodies of the ILO, as providing necessary safeguards in the recovery from the pandemic considering both the Global Call to Action of the ILO and the UN Secretary-General's Call to Action for Human Rights. In the case of the ferry company, British law does consider that the company's lack of notice and consultation amounted to unfair dismissal. Consequently, the company's management were able to calculate that the likely cost of ignoring these protections was a price worth paying to slash staffing costs. And by sacking the workers with such fleeting notice, the company not only rendered the protection offered by the collective agreement meaningless, it also set a dangerous precedent. This highlights urgently the obligation of the government to encourage and promote the full development and utilization of collective bargaining as a means of regulating terms and conditions of employment, which is key to a human-centred recovery. The Office must provide technical assistance to Member States for this purpose. It should always, after all, be harder to do the wrong thing than the right thing.

- 129. Worker member, Netherlands:** We welcome the attention given by the Committee of Experts' General Report to the role of international labour standards and effective and authoritative supervision as foundations for the realization of the ILO's Global Call to Action for a human-centred recovery from the COVID-19 pandemic. Even though in some parts of the world the pandemic seems almost something of the past, in many other parts the COVID-19 crisis is still an everyday reality with a very negative impact on the world of work, including the widening of pre-existing inequalities. In addition to the impact of the COVID-19 crisis, including its economic aftershocks, the situation has now been aggravated by the Russian invasion of Ukraine. The prices of food and energy are rapidly rising with a strong effect on the cost of living. Again, the most vulnerable groups receive the hardest blows. Together with the economic crisis, we also observe the shrinking civic space, the phenomenon also highlighted by the reports of the Committee of Experts. Even though in terms of national figures in my country, the Netherlands, we seem to have recovered well from the pandemic, the present crisis is casting a dark shadow. Also, certain groups of self-employed workers who were already suffering due to the COVID-19 crisis are still struggling to get back on track and despite the Equal Treatment Act and assurances given by the Dutch National Competition Authority,

guaranteeing self-employed workers to collectively agree on tariffs and other conditions, in practice there are still not enough guarantees to be authorized to participate in free and voluntary collective bargaining as stated in the Committee of Experts' General Report as well as in the ILO flagship report *Social Dialogue Report 2022*. It is deeply disconcerting that we still have examples in our country of employers who violently chase out representatives of trade unions from their premises, especially in those companies that employ a lot of migrant workers, thereby denying them their legal right to collective bargaining. We want to emphasize here again the importance and the central role of collective bargaining for all workers in the recovery measures and the response to the present crisis. It is the role of the Government in this critical time to protect, respect and fulfil the right to collective bargaining by encouraging and promoting its full development.

- 130. Worker member, Zimbabwe:** I am going to speak about the role of international labour standards in recovery measures post-COVID-19. As we are all aware, the world is just recovering from the effects of the COVID-19 pandemic. The pandemic has exposed great shortcomings of the existing legal and policy frameworks and has increased inequality and poverty among the populations. The pandemic has also stalled or reversed some of the progress made towards the Sustainable Development Goals and in particular SDG8, which is about full, productive and freely chosen employment and decent work for all. Scores of people have had their workplaces closed and some businesses that closed did not open again. This increased the number of people already in the labour market who are worse off and look for their survival. Most of the countries in my region, Africa, do not have social protection and in those countries that have, the social protection is very weak, therefore measures or other forms of income security needs to be adhered to and looked at. We also note some of the piecemeal legislations made overnight on the pretence of combating the pandemic, but with underlying agendas. Some governments made policies and imposed them without meaningful consultations with the representatives of workers or civil society organizations or those that were affected.
- 131.** We also note the death of freedom of association and civil liberties during the restriction periods and the use of disproportionate force in enforcing the restrictions. We also saw the suppression of collective bargaining. I want to emphasize the role of freedom of association, respect for civil liberties and collective bargaining in ensuring a human-centred recovery from the pandemic. It is only when nations respect the right of freedom of association, collective bargaining and tripartite consultations that we can move together as a collective entity. This will enhance participation in policy formulation and ownership of outcomes leading to maximum compliance without resorting to disproportionate enforcement. I call upon the Government to strengthen their role in setting mechanisms for voluntary negotiations and its self-respect in collective bargaining and freedom of association, particularly looking at teachers, nurses and other public sector workers.
- 132.** When there is respect from the government, businesses comply as the government is leading by example. I also call upon the ILO to increase its assistance and support to governments that are in need to set up the appropriate legal framework and institutional support mechanisms for promoting collective bargaining and freedom of association. In this respect, the ILO flagship report on social dialogue and collective bargaining in the context of pandemics sets out good examples to ensure respect of collective bargaining in practice, including for workers in the informal economy. In particular in my region, informal economies are a major issue and collective bargaining can play a significant role in the transition to formality.
- 133. Worker member, Colombia:** As stated by the Committee of Experts in their report, the crisis has highlighted the weakness of existing regulatory frameworks. Many were lax and

permissive, with the dismissal of thousands of workers and the deterioration of their working conditions during the pandemic. In Colombia, the crisis caused the loss of some 2 million jobs and although some of them have been recovered, it has been in the form of precarious contracts. Inequality and poverty have reached alarming extremes. According to World Bank figures, between 75 and 95 million more people could live in poverty; in Colombia it is now an estimated 42.5 per cent who have to survive on less than \$3 a day. In view of this situation, the Global Call to Action for a human-centred recovery is of supreme importance. All ILO Member States should reinforce respect for and compliance with international labour standards and promote their ratification, and even more the application and observance of them. The ILO has appealed for obligations entered into under ratified international labour standards not to be suspended and, on the contrary, has urged all Member States to hold dialogues with a view to devising national strategies based on respect for rights.

- 134.** We are bound to be concerned at the fact that countries such as Colombia have the lowest levels of collective bargaining. In Colombia, the rate of unionization stands at less than 4 per cent and bargaining coverage in the private sector is even less, standing at 1.75 per cent of the employed population. This is a country where the regulatory frameworks themselves have weakened collective bargaining, since they allow the signing of agreements between employers and non-unionized workers despite the fact that the Committee of Experts and the Committee on Freedom of Association have urged the Colombian State for many years to amend those regulations, since these practices tend to weaken collective bargaining and the very act of unionization itself. The anti-union effects of collective accords result in greater benefits to non-unionized workers. In this regard, monitoring by the Ministry of Labour with regard to the illegality of collective accords is ineffective. Delays are also seen in the appointment of arbitration tribunals and there is a strong tendency to settle union demands on the basis of existing collective accords. The report highlights the positive impact when collective bargaining is undertaken with a number of employers, which enables inclusive regulatory coverage. However, in Colombia this methodology has been circumvented by the lack of regulation, for example preventing collective bargaining for Colombian football players since 2019. We are bound to be concerned about lifeless collective bargaining in which agreements are signed that are subsequently not implemented, as was the case with over 50 per cent of agreements signed between public sector entities in Colombia and the trade union federations. For example, the undertaking signed in August 2021 to promote the ratification of four ILO Conventions has not been honoured. Consequently, we appeal for respect for freedom of association, because all persons have the right to a dignified life with decent conditions of work and, as highlighted in the Committee of Experts' report, we, the Workers' group, consider it important to underline the appeal to strengthen both social dialogue and collective bargaining.
- 135. Worker member, Panama:** Collective agreements are important for workers and, in reality, this pandemic has resulted in the violation of Conventions Nos 98 and 87. It is necessary to recall how, in recent years, social, economic and political problems have been worsening as a consequence of the measures that have been vigorously applied around the world as part of neoliberal globalization. Poor countries have had to invest significant resources from their meagre budgets to deal with the health crisis, while large pharmaceutical companies make huge profits and a handful of ultra-millionaires have seen their colossal fortunes grow. At the same time, unemployment, poverty and hardship are growing and, as if that were not enough, food shortages, famine and a greater migratory crisis are declared as a consequence of the superpower's war in Ukraine. A new world order is struggling to emerge through a hard and difficult process, what will it be like? We advocate for a fairer world with greater equity, multilateralism and solidarity among peoples, where international law is respected and

dialogue and negotiation are used to resolve conflicts, where interventionism and wars cease and peace reigns with social justice. We trust that this Conference will adopt a position along these lines. The critical situation facing the global economy, which keeps millions of human beings in despair and hopelessness, has been exploited in some countries by business groups in collusion with governments to roll back sacred workers' rights and achievements, including the ILO Conventions.

- 136.** In Panama, this is manifested through mass dismissals disguised as mutual agreements, as seen in certain enterprises, and with reductions in working hours to reduce wages, and intensifying exploitation. In other cases, the extension of daily working hours contradicts the fundamental achievement of the eight-hour working day attained through the sacrifice of the martyrs of Chicago in 1936. There are also violations of maternity leave, an increase in child labour, school dropouts, growing unemployment, which especially affects women and young people, ridiculous salaries, pensions and retirement payments, and denial of the minimum wage in a context of an unbridled rise in fuel prices and its impact on the cost of food, medicines, transport and services. The denial of the right to organize persists for workers in banks, the Colón free zone and elsewhere. Economic zones are established with multiple concessions and tax subsidies and behave almost like colonies where national labour laws hardly apply, such as in the open pit mines in Chiriquí, and in the free zones in different areas of the country. The Labour Code is also being violated through attempts to recognize the payment of surcharges on Sundays in the tourism sector and by programmes supposedly to generate employment, among others.
- 137. Observer, International Transport Federation (ITF):** I would like to extend my thanks to the many ILO colleagues who have worked assiduously to protect seafarers during the pandemic. Today, the adverse impacts of the pandemic are still felt by the world's 1.4 million seafarers. As of this month, 16 per cent of them are yet to be vaccinated. In terms of the crew change crisis, a conservative estimate would have at least 5,000 seafarers currently working beyond their contracts. As the Committee of Experts has noted, such situation can give rise to forced labour. As we speak, 20 per cent of the world's 9,000 active container ships are sitting in traffic jams outside of congested ports. Now, with the Russian Federation's aggression in Ukraine, Ukrainian and Russian seafarers are also bearing the brunt of this conflict. As the Committee of Experts noted with deep regret, ratifying States continue to violate the provisions of the MLC, 2006, including the denial of access to medical care ashore. States also continue to evoke force majeure as a reason to extend crew contracts beyond the MLC, 2006, maximum period of 11 months. Again, the Committee of Experts makes it absolutely clear that force majeure may no longer be invoked. The state duty to protect workers from forced labour is a non-derogable right under international law. Therefore, we implore States to fully comply with the MLC, 2006, as we enter a new phase in the pandemic. We also call on States to adopt a meaningful TRIPS waiver for COVID-19 vaccines and treatments at the upcoming WTO negotiations. While the role of governments is clear, all supply chain actors have a role to play in protecting seafarers' rights. The UN tool to support human rights due diligence in the context of the COVID-19 crew change crisis is part of the solution. We need the business community to step up their engagement on this issue. Finally, on a separate matter, the ITF, as a signatory to the only collective agreement negotiated at the global level, has to reiterate its full respect for the Committee of Experts and its pronouncements with regard to the right to collective bargaining. All workers, irrespective of employment status, have their bargaining rights protected under Convention No. 98. We also reiterate that national legislation that proscribes collective negotiations at upper levels does not create compliance issues with Article 4 of the Convention. Further, we maintain that the non-diminution of favourable

conditions established under collective agreements is a sacrosanct principle, as is the employer duty to bargain in good faith.

### Statement by Government members

- 138. Government member of France speaking on behalf of the European Union and its Member States:** The candidate country Albania and the EFTA country Norway, member of the European Economic Area, as well as Georgia and Montenegro, align themselves with this statement. We welcome the discussion at the Committee on the Application of Standards, and appreciate that we are almost back to our normal schedule. We strongly believe in the fundamental importance of international labour standards, their ratification, and the effective and authoritative supervision on their implementation.
- 139.** We fully support the Committee's premise that this foundation is essential for a human-centred recovery from the COVID-19 crisis that is inclusive, sustainable, equitable and resilient, as outlined in the Global Call to Action. It plays a central role in preventing further socio-economic regression and in putting recovery efforts on a more stable footing.
- 140.** We highly appreciate the analysis and expertise of the Committee of Experts shown in the General Report, which provides a solid basis for the work of our Committee. We recall our strong commitment to the independence, objectivity and impartiality of the Committee of Experts. All EU Member States have ratified all fundamental ILO Conventions, since we truly believe that ratification, implementation of and compliance with all fundamental ILO Conventions not only contribute to the protection and promotion of human rights, including labour rights, but also to the larger objectives of building social and economic stability, as well as inclusive and equitable societies all over the world.
- 141.** This commitment is reaffirmed in the EU's bilateral and regional trade and investment agreements and unilateral preferential trade schemes, as well as through our continuous support for ILO technical assistance. Building support for international labour standards through extended cooperation across the multilateral system, with the support of the UN family, is also key to ensure that these standards continue to guide and be part of recovery policies while also contributing to the achievement of the Sustainable Development Goals.
- 142.** The COVID-19 pandemic had a widespread impact on many economic sectors and serious negative consequences for decent work around the world. We echo the Committee's concern over the situation of groups in vulnerable situations, as outlined in the report, who are bearing the brunt of the pandemic, especially women and young people. We also underline the importance of including occupational safety and health in the ILO's framework for fundamental principles and rights at work. We share the concern expressed over the situation of care personnel, domestic workers and seafarers, in particular. The pandemic has exacerbated the difficult working conditions of nursing personnel and personal care workers, including domestic workers, leading many to leave the sector. Conventions Nos 149 and 189 and their respective Recommendations aim to improve the situation of these frontline workers significantly, once ratified and implemented by all Member States. All Member States, irrespective of whether they have ratified the fundamental Conventions, are obligated to respect, promote and realize the fundamental principles and rights at work for all workers in line with the ILO Declaration on Fundamental Principles and Rights at Work, 1998. The forthcoming European care strategy is expected to address both carers and care receivers, from childcare to long-term care.
- 143.** We would also like to reiterate that seafarers are key workers who play a vital role in ensuring the continuity of global supply chains, while working in increasingly challenging circumstances,

further exacerbated by the pandemic and changing geopolitical circumstances. The full implementation of the MLC, 2006, has never been more important, and while at least one essential amendment could not find consensus, we are happy that a number of important improvements could be agreed upon at the recent meeting of the Special Tripartite Committee.

- 144.** A well-functioning supervisory system, tripartism and social dialogue are critical to ensure the credibility of the Organization's work as a whole. We will continue to fully support it as we remain convinced that it is one of the most valuable examples of a multilateral rules-based order which, we feel, is under attack. As stated in the Governing Body Resolution of March, the Russian Federation's aggression against Ukraine not only grossly violates international law and the principles of the UN Charter, but is also incompatible with the aims and purposes of this Organization and the principles governing ILO membership. The EU and its Members States strongly condemn these illegal military actions, including their devastating impact on the world of work in Ukraine, as well as their wider ramifications across the globe. We reaffirm our steadfast support for the return to the global rules-based order, with the UN, including the ILO, at its core. We are looking forward to a constructive engagement with tripartite constituents during the debate in this Committee.

### Reply of the Chairperson of the Committee of Experts

- 145.** I would like to express my gratitude for the invitation to the Committee of Experts to accompany you on this most interesting and productive day. As I said at the opening of the Conference, being here has allowed me to hear at first hand your comments and the exchange of opinions on the General Survey prepared by the Committee of Experts. I shall inform my colleagues about the discussions and the views expressed.
- 146.** Moreover, I would like to share with you my satisfaction at the fact that some of the measures adopted regarding the working methods of our Committee have been warmly received. The Committee of Experts has considered extending the use of hyperlinks to its forthcoming comments. As you will certainly have noted from the respective comments, we took the decision to indicate in a special paragraph in each comment, clearly and prominently, the reasons why we consider it important that the governments concerned should provide detailed information to the Conference. I can inform you that we will continue this practice.
- 147.** As regards the use of the criteria established for the preparation of observations and direct requests, we will take account of your concerns, but it should be recalled that their application is not based on an exact science with a mathematical formula.
- 148.** I have also noted your comments and suggestions with respect to other measures that might be applied, in particular regarding the presentation of the report in its paper version and also the possibilities offered by the NORMLEX database. I will share these observations with my colleagues and I assure you that they will be the subject of discussion at our next meeting.
- 149.** That said, there is one aspect that I would now like to revisit. This concerns the importance of the submission of reports – but not only their submission. It is also equally relevant that the submission should be timely and that reports contain requested information and replies to comments made by the Committee since this enables the Committee of Experts to carry out their analytical work in a more systematic and complete way in the time allocated each year. Esteemed Conference delegates and attendees, believe me, this is really a fundamental element for ensuring the efficient functioning of the supervisory system. The purpose of the examination that we undertake in the Committee of Experts is to verify compliance by States with their obligations regarding the application of the international Conventions which they have ratified. If the Committee does not receive reports when they are due or within the time



period when they are requested, not only does this limit us but, in endeavouring to fulfil our mandate, we are then required to carry out the work of analysis with the assistance of other information sources without having the perspective of the government concerned.

- 150.** In this context, special relevance attaches to the observations sent by employers' and workers' organizations under article 23 of the ILO Constitution. What I am saying is that the observations of these social actors are of special value in that they contribute different elements which shed light on the realities of the country concerned for the Committee of Experts, with respect to the application of Conventions seen from the perspective of both employers and workers.
- 151.** With regard to freedom of association, I have also taken note of the importance that many delegates attach to it, just as to collective bargaining, in the context of the particular circumstances that had an impact on the exercise of these rights during the worst phase of the COVID-19 pandemic. Our attention to your comments is very timely, especially as the effects and impact of this pandemic are still present in many countries.
- 152.** We are aware that, in order to achieve a people-centred recovery, it is necessary to recognize the particularities of each country, without, however, losing sight of the imperative of ensuring compliance with international labour standards. In this context, as emphasized in our report, all aspects of social dialogue are particularly important, with regard to the formulation, implementation, monitoring and review of policies in response to the COVID-19 crisis. This is aimed at ensuring that such dialogue is based on respect for rights at work, which are adapted to national circumstances, and that it fosters local ownership.
- 153.** Distinguished delegates, trust that I pay attention to the comments containing different opinions on questions of interpretation relating to Convention No. 87. In the same vein and with the same importance, I have heeded your different considerations with respect to Convention No. 98. On these two instruments, I am bound to recall that the Committee of Experts has maintained a consistent and constant approach and interpretation over the years. Moreover, we attach the utmost importance to the comments made on their application by both workers' and employers' organizations. As we have indicated in the past, I must reiterate that the work of the Committee of Experts is carried out within the framework and context of the mandate it received, and also in the exercise of our independence as a specialized body that forms part of the supervisory bodies of this extraordinary international organization. Additionally, it is worth noting that the Committee of Experts also follows with great attention the discussion held in the Governing Body regarding the adoption of measures to guarantee legal security and the possibilities granted under article 37 of the Constitution of the International Labour Organization.
- 154.** It only remains for me to reiterate that all the opinions expressed during this discussion will be conveyed to my colleagues on the Committee of Experts, and that our Subcommittee on Working Methods, which meets every year, will give special importance to the subjects discussed, as it has done on every occasion. I cannot conclude my presentation without sharing with you how pleased I am to know that we will meet again at the end of this year. We will meet again to continue sharing information and discussing any improvements we can make to the regular supervisory system of the International Labour Organization. So, in the meantime, I thank you very much for your keen interest in the work of the Committee of Experts, for your commitment to the principles that bring us together each year, and for the dedicated work that we all do year after year.

## Reply of the representative of the Secretary-General

- 155.** This year, your discussions on the General Report and the General Survey of the Committee of Experts were again rich in information and experience-sharing, and also in terms of analysis and exchanging views. In particular, with regard to your discussions on the General Survey, I noted that all the interventions highlighted the implementation of Conventions that have demonstrated their usefulness and relevance. Echoing the analysis of the Committee of Experts, you also shared your national experiences, successes and challenges. The Office has listened very carefully to your discussions and will take them into account, along with the analysis of the Committee of Experts, in its future activities to promote Conventions Nos 149 and 189, with a view to their ratification and implementation. In particular, let me remind you that the International Labour Conference will have a general discussion in 2024 on decent work and the care economy. This general discussion will continue the dialogue you began this year on the basis of the report of the Committee of Experts.
- 156.** I have also taken note of all the comments made on the role of the Office as a player in the development and implementation of the International Labour Organization's standards policy. Rest assured that all your comments and suggestions have been given my full attention.
- 157.** I will conclude with a few words about the technical assistance portfolio in the area of international labour standards and confirm that we will continue to respond to all the requests for technical assistance that we receive. In particular, in response to the comments of the Employer Vice-Chairperson, I would like to bring to your attention that under output 2.3 of the Programme and Budget for the biennium 2022–23, the Office encourages through its technical assistance the engagement of the social partners in standards-related activities, with a view to promoting a common vision between governments, workers and employers on national objectives for the ratification of international labour Conventions, with a schedule that allows for sufficient preparation and national consultation. It goes without saying that the assistance of the International Labour Office is always available and can be mobilized by each of the three constituents of our Organization for this purpose. I would like to conclude by inviting all the delegates present in Geneva during this Conference to approach the Office so that we can take this opportunity to discuss deepening our collaboration and identify the areas in which you would like us to provide technical assistance. Do not hesitate, we are here throughout the Conference. Contact the Office – we are at your disposal.

## Concluding remarks

- 158. Worker members:** The General Report and the discussion have clarified several things, and we have been able to observe the dynamism that is characteristic of the Committee of Experts in view of the numerous initiatives that are being taken. The Worker members welcome them and regret that our discussions did not dwell on them adequately. We also regret that, despite the many years that we have been discussing certain points, they continue to arise in what sometimes appears to be a dialogue of the deaf. We are therefore obliged to come back to them.
- 159.** We recall in the first place that our Committee was not established to supervise the work of the Committee of Experts. As a result, comments criticizing them for having recourse to direct requests – which prevents tripartite discussion on those subjects – are inappropriate. Moreover, our Committee is not in a position to discuss the report in its entirety, in view of the time constraints. But if the Employer members wish to spend more time on that, it would perhaps be appropriate to discuss more cases in future. The proposal for the report to be presented by country and not by Convention seems to lose sight of the fact that Governments

make separate ratifications of Conventions. This implies that a government may very well be in compliance with one Convention and have severe failings in relation to another. Clearly, it cannot be imagined that anyone here wishes evaluations and responsibilities to be diluted.

160. Some have also tried to establish a link between the ratification of Conventions and compliance with them by suggesting that ratification has been premature and does not correspond to the national situation. On the one hand, this observation is not based on any objective or well-founded evaluation. And on the other, it appears to go against the dynamic that is present in various countries, particularly where there are changes in the political majority. That means that respect for standards is not an unchanging reality and requires constant vigilance. We also consider that there is a duty of loyalty and good faith in relation to the instruments adopted by the ILO. We have spent much time negotiating Conventions to achieve the broadest consensus and, in particular, to take into account the needs of all constituents. These texts are not intended as museum pieces or to brighten declarations. Their purpose is to be ratified, even if the process can take time. Good faith requires all constituents to make every effort to achieve ratification.
161. The Employer members have considered it appropriate to come back to their subjective assessment of the scope of Article 4 of Convention No. 98. We wish to emphasize that our Committee is not a tribunal and has no mandate or competence to issue opinions on the meaning of Conventions. But as the Employer members have referred to their views, we will nonetheless also mention ours. The Worker members consider that Convention No. 98 covers all workers, with the exception of those explicitly excluded by the Convention. We do not consider that the Committee of Experts has an unsound appreciation of what is to be understood by the concept of freedom of negotiation, and we endorse its analysis in this regard. Nevertheless, it seems evident that by multiplying criticisms, recourse to article 37 of the ILO Constitution will probably not only be a theoretical option, but will be used frequently.
162. We can continue the discussion for many years concerning the independence of the Committee of Experts, the number of pages of their reports and the relevance of direct requests. However, in the meantime, many workers are being murdered solely by reason of their trade union activities, fundamental rights are being violated and inequalities are continuing to deepen. It is therefore appropriate to ask whether our Committee could not make a more optimal use of its time to achieve social progress.
163. **Employer members:** The Employer members wish to express at the outset our deep appreciation for the replies from the Chairperson of the Committee of Experts and the representative of the Secretary-General. The presence of the Chairperson of the Committee of Experts and the ongoing dialogue between the Committee of Experts and the Conference Committee is of utmost importance in the view of the Employers' group to allow for the ILO constituents to first and foremost better understand standards-related requirements and, second, also to facilitate the Committee of Experts' understanding of the realities and needs of users of the supervisory system in real economies.
164. We wish to emphasize our deep satisfaction and gratitude for the open manner in which the Chairperson of the Committee of Experts has approached the dialogue with the Committee. We positively note, in particular, her openness to the submissions made regularly by both employers' and workers' organizations and her recognition of the importance of this information for the Committee of Experts' examination of the Convention under consideration. It is of utmost importance to continue to build on convergence and consensus as much as possible between the Conference Committee and the Committee of Experts in order to provide

effective and practical guidance to tripartite constituencies that can influence the situation in the national context in a positive manner.

- 165.** We welcome the emphasis that the Chairperson of the Committee of Experts placed on the importance of social dialogue particularly in the context of the application of standards and we wholeheartedly support these comments. We believe that it is important to continue to work towards consensus and convergence with social dialogue driving that process. We also note that we may not always agree with every aspect of the Committee of Experts' observations, but this fundamentally is not an attempt to derogate from or influence the autonomy or the mandate of the Committee of Experts. We certainly have a deep respect for the independence of the Committee of Experts but nevertheless, as a tripartite constituent, recognize the appropriate opportunities to provide our feedback and engage in social dialogue in this regard. The Employer members consider the work of the Committee of Experts a major contribution to the successful functioning of the Conference Committee and the regular standards supervision as a whole. While maintaining its independence, it is important in our view, for the Committee of Experts to listen and be open to the tripartite constituents in order to ensure that there is an implementation of measures that make the regular standards supervision more user-friendly, effective, transparent and balanced, as well as guiding the participants' understanding and application of international labour standards.
- 166.** We disagree with the Worker Vice-Chairperson's comments that this is a dialogue of the deaf and do not find it helpful to make reference to article 37 whenever there are points of divergence of view. Rather, we note that these types of comments suggest a shutdown approach to the consideration of proposals that we make in the spirit of trying to improve the sustainability and the effectiveness of the supervisory system. We also must take issue with the Worker Vice-Chairperson's remarks in which he seems to be focused on the fact that any expression of disagreement is an attempt to derogate from the autonomy of the Committee of Experts. We wish to simply clarify in this open discussion that this is absolutely not the case. In our view, it is important for the Employer members to use this moment in the context of the general discussion to explain their views with the very helpful participation of the Chairperson of the Committee of Experts. We also note that this is especially important in the context of the Centenary Declaration in which there is a recognition that international labour standards need to respond to the changing patterns of the world of work to protect workers and to take into account the needs of sustainable enterprises.
- 167.** The Employer members have highlighted several issues that arise when we consider the application of Conventions. As the current Director-General, Guy Ryder, mentioned to the Employers' group, this is not a zero-sum game as we must listen to each other and work towards consensus. Therefore, we would simply point out that in our view it is important to continue to take into account the needs of the tripartite constituency including the Workers' view, the Governments' view, and the view of the Employers, in order to work towards ensuring that ILO standards supervision is moving forward in a transparent and sustainable manner. This seems to us to be of particular relevance in view of the impact of COVID-19, as well as the Russian war on Ukraine, as a result of which enterprises will be expected to be resilient and play a key role in economic and social recovery for affected countries. Enterprises in our view are expected to be resilient and play a key role as economic and social stabilizers for societies, especially in terms of crisis response. Therefore, we very much welcome the spirit in which the Chairperson of the Committee on Freedom of Association and the Chairperson of the Committee of Experts have engaged in the work of our Committee. We have very much appreciated the opportunity to share our views on these important issues and we would take this opportunity to note that we look forward to ongoing engagements between our

Committee and the Committee of Experts in the coming year. We look forward to more opportunities to continue to build on the dialogue that exists, as well as the consensus and the convergence on matters of application of international labour standards between the two pillars of the supervisory system. Tripartite social dialogue in this house allows the governments to benefit from information coming from the real economy, from the perspective and feedback of both social partners. Tripartite social dialogue is at the core, at the heart, of what makes the ILO unique in the UN system and, in our respectful submission, makes the ILO effective as a multilateral actor. Therefore, we continue to restate our commitment, especially in the context of the recovery from the COVID-19 pandemic, to continue to engage in a collaborative manner, to continue to find convergence and consensus on all of these issues.

- 168.** To close, we very much look forward to working in 2022 under the leadership of the newly elected ILO Director-General, Mr Gilbert F. Houngbo, in a constructive manner based on social dialogue, in the spirit of our full commitment to continue to work together with the supervisory system.

## C. Reports requested under article 19 of the Constitution

### *General Survey: Securing decent work for nursing personnel and domestic workers, key actors in the care economy*

- 169.** The Committee dedicated a sitting to the discussion of the General Survey carried out by the Committee of Experts concerning Nursing Personnel Convention, 1977 (No. 149), the Nursing Personnel Recommendation, 1977 (No. 157), the Domestic Workers Convention, 2011 (No. 189), and the Domestic Workers Recommendation, 2011 (No. 201). The record of this discussion is contained in section A of Part Two of this report.

### Concluding remarks

- 170.** At the meeting on the adoption of the outcome of the discussions, the following statements were made by members of the Committee.

### Outcome of the discussion of the General Survey

- 171.** The Committee approved the outcome of its discussion, which is reproduced below.

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## D. Compliance with specific obligations

### 1. Cases of serious failure by Member States to respect their reporting and other standards-related obligations

- 172.** During a dedicated sitting, the Committee examined the cases of serious failure by Member States to respect their reporting and other standards-related obligations. As explained in document D.1, part V, the following criteria are applied: failure to supply the reports due for the past two years or more on the application of ratified Conventions; failure to supply first reports on the application of ratified Conventions for at least two years; “Urgent appeals” – Failure to supply reports on the application of ratified Conventions for at least three years and failure to supply first reports on the application of ratified Conventions for at least three years; failure to supply information in reply to all or most of the comments made by the Committee of Experts; failure to supply the reports due for the past five years on unratified Conventions

and Recommendations; failure to submit the instruments adopted for at least seven sessions to the competent authorities; and failure during the past three years to indicate the representative organizations of employers and workers to which, in accordance with article 23(2) of the Constitution, copies of reports and information supplied to the Office under articles 19 and 22 have been communicated. The Chairperson explained the working methods of the Committee for the discussion of these cases. The procès-verbaux of this discussion is found in section B of Part Two of this report.

### 1.1. Failure to submit Conventions, Protocols and Recommendations to the competent authorities

- 173.** In accordance with its terms of reference, the Committee considered the manner in which effect was given to article 19(5), (6) and (7) of the ILO Constitution. These provisions required Member States within 12, or exceptionally 18, months of the closing of each session of the Conference to submit the instruments adopted at that session to the authority or authorities within whose competence the matter lies, for the enactment of legislation or other action, and to inform the Director-General of the ILO of the measures taken to that end, with particulars of the authority or authorities regarded as competent.
- 174.** The Committee noted that, in order to facilitate its discussions, the report of the Committee of Experts mentioned only the governments which had not provided any information on the submission to the competent authorities of instruments adopted by the Conference for at least seven sessions (from the 99th Session (2010) to the 108th Session (2019), because the Conference did not adopt any Conventions and Recommendations during the 97th (2008), 98th (2009), 102nd (2013) 105th (2016) and 107th (2018) Sessions). This time frame was deemed long enough to warrant inviting Government delegations to the dedicated sitting of the Committee so that they may explain the delays in submission.
- 175.** The Committee took note of the information and explanations provided by the Government representatives who took the floor during the dedicated sitting. It noted the specific difficulties mentioned by certain delegates in complying with this constitutional obligation, and in particular the intention to submit shortly to competent authorities the instruments adopted by the International Labour Conference. Some governments have requested the assistance of the ILO to clarify how to proceed and to complete the process of submission to national parliaments in consultation with the social partners.
- 176.** The Committee recalls that compliance with the obligation to submit Conventions, Recommendations and Protocols to competent national authorities is a requirement of the highest importance to ensure the effectiveness of the Organization's standards-related activities. It also recalled that governments could request technical assistance from the Office to overcome their difficulties in this respect.
- 177.** The Committee noted that the following countries were still concerned with the serious failure to submit the instruments adopted by the Conference to the competent authorities: **Angola, Bahamas, Bahrain, Belize, Brunei Darussalam, Central African Republic, Chad, Comoros, Congo, Democratic Republic of the Congo, Dominica, Equatorial Guinea, Eswatini, Gabon, Gambia, Grenada, Haiti, Hungary, Kazakhstan, Kuwait, Lebanon, Liberia, Libya, Maldives, Marshall Islands, North Macedonia, Papua New Guinea, Rwanda, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Seychelles, Solomon Islands, Syrian Arab Republic, Timor-Leste, Tuvalu, Vanuatu, Yemen and Zambia.** The Committee expressed the firm hope that appropriate measures would be taken by the Governments concerned to comply with their constitutional obligation to submit.

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

- 178.** The Committee took note of the information and explanations provided by the Government representatives who took the floor during the dedicated sitting. Some governments have requested the assistance of the ILO. The Committee recalled that the submission of reports on the application of ratified Conventions is a fundamental constitutional obligation and the basis of the system of supervision. It also recalled the particular importance of the submission of first reports on the application of ratified Conventions. It stressed the importance of respecting the deadlines for such submission. Furthermore, it underlined the fundamental importance of clear and complete information in response to the comments of the Committee of Experts to permit a continued dialogue with the Governments concerned. In this respect, the Committee recalled that the ILO could provide technical assistance to contribute to compliance in this respect.
- 179.** The Committee noted that, by the end of the 2021 meeting of the Committee of Experts, the percentage of reports received (article 22 of the ILO Constitution) was **65.9** per cent (40 per cent for the 2020 meeting). Since then, further reports have been received, bringing the figure to **74.2** per cent (as compared with 42.8 per cent in June 2021).
- 180.** The Committee noted that no reports on ratified Conventions have been supplied for the past two years or more by the following States: **Afghanistan, Antigua and Barbuda, Chad, Dominica, Equatorial Guinea, Haiti, Lebanon, Saint Lucia, Syrian Arab Republic, Tuvalu, Uganda, Vanuatu** and **Yemen**.
- 181.** The Committee also noted that first reports due on ratified Conventions have not been supplied by the following countries for at least two years: **Albania, Congo, Equatorial Guinea, Gabon** and **Guinea**.
- 182.** The Committee noted that no information has yet been received regarding any or most of the observations and direct requests of the Committee of Experts to which replies were requested for the period ending 2021 from the following countries: **Afghanistan, Antigua and Barbuda, Bahamas, Barbados, Plurinational State of Bolivia, Chad, Comoros, Congo, Dominica, Equatorial Guinea, Eritrea, Gabon, Gambia, Guinea, Haiti, Kiribati, Lebanon, Madagascar, North Macedonia, Papua New Guinea, Saint Lucia, San Marino, Singapore, Slovenia, Somalia, South Sudan, Sudan, Syrian Arab Republic, Tajikistan, Timor-Leste, Tuvalu, Uganda, United Kingdom – British Virgin Islands, United Republic of Tanzania, Vanuatu** and **Yemen**.

## 1.3. Urgent appeals

- 183.** Following the decision of the Committee of Experts to institute a new practice of launching urgent appeals for cases corresponding to countries which have failed to send, under article 22 of the Constitution, the reports due for at least three years, and failed to send first reports for at least three years, to draw the attention of the Committee on the Application of Standards to those cases, the Committee invited the countries concerned to provide information during the examination of cases of serious failure to fulfil reporting obligations, and expressed the hope that the Governments of **Albania, Congo, Dominica, Equatorial Guinea, Guinea, Lebanon, Saint Lucia** and **Vanuatu** will supply their reports due as soon as possible.
- 184.** The Committee brought to the attention of these Governments that the Committee of Experts could examine in substance, at its next session, the application of the Conventions concerned on the basis of publicly available information, even if the Government has not sent the

corresponding report. The Committee recalled the possibility of governments availing themselves of the technical assistance of the Office in this regard.

#### 1.4. Supply of reports on unratified Conventions and Recommendations

- 185.** The Committee stressed the importance it attaches to the constitutional obligation to supply reports on unratified Conventions and Recommendations. These reports permit a better evaluation of the situation in the context of the General Surveys of the Committee of Experts. In this respect, the Committee expressed the firm hope that the Governments concerned will comply with their obligation to supply these reports and recalled that the ILO can provide technical assistance to contribute to compliance in this respect.
- 186.** The Committee noted that over the past five years none of the reports on unratified Conventions and Recommendations, requested under article 19 of the Constitution, have been supplied by: **Belize, Brunei Darussalam, Chad, Congo, Djibouti, Dominica, Haiti, Lesotho, Liberia, Marshall Islands, Papua New Guinea, Saint Lucia, Sao Tome and Principe, Sierra Leone, Timor-Leste, Tuvalu and Yemen.**

#### 1.5. Communication of copies of reports to employers' and workers' organizations

- 187.** The Committee welcomes the fact that no Member State has failed to indicate during the past three years the names of the representative organizations of employers and workers to which, in accordance with article 23(2) of the Constitution, copies of reports and information supplied to the ILO under articles 19 and 22 have been communicated. The Committee pointed out that the fulfilment by governments of their obligation to communicate reports and information to the organizations of employers and workers was a vital prerequisite for ensuring the participation of those organizations in the ILO supervisory system. The Committee expresses the firm hope that this is a sign of genuine tripartite social dialogue in all ILO Member States. The Committee encourages Member States to continue in that direction.

## 2. Application of ratified Conventions

- 188.** The Committee noted with **interest** the information provided by the Committee of Experts in paragraph 104 of its report, which lists new cases in which that Committee has expressed its satisfaction at the measures taken by governments following comments it had made as to the degree of conformity of national legislation or practice with the provisions of a ratified Convention. In addition, the Committee of Experts has listed in paragraph 107 of its report cases in which measures ensuring better application of ratified Conventions have been noted with interest. These results are tangible proof of the effectiveness of the supervisory system.
- 189.** At its present session, the Committee examined 22 individual cases relating to the application of various Conventions.<sup>5</sup>

### 2.1. Specific cases

- 190.** The Committee considered that it should draw the attention of the Conference to the discussion it held regarding the case of the application of Convention No. XX by xxx. The full record of this discussion, the Committee's conclusions and the government statement following their adoption, appear in Part Two of this report.

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<sup>5</sup> A summary of the information submitted by governments, the discussion and conclusions of the examination of the individual cases are contained in section C of Part Two of this report.



## 2.2. Continued failure to implement

191. The Committee recalls that its working methods provide for the listing of cases of continued failure over several years to eliminate serious deficiencies in the application of ratified Conventions which it had previously discussed. The Committee ...

## 3. Participation in the work of the Committee

192. The Committee wished to express its appreciation to the **34** governments which collaborated by providing information on the situation in their countries and participating in the discussion of their cases.
193. The Committee nevertheless **regretted** that the Governments of the following States failed to take part in the discussions concerning their country and the fulfilment of their reporting and other standards-related obligations: **Afghanistan, Bahrain, Barbados, Belize, Plurinational State of Bolivia, Brunei Darussalam, Chad, Comoros, Congo, Democratic Republic of the Congo, Eritrea, Gabon, Guinea, Haiti, Kiribati, Libya, Madagascar, Marshall Islands, North Macedonia, Papua New Guinea, Rwanda, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, San Marino, Sao Tome and Principe, Seychelles, Sierra Leone, Singapore, Slovenia, Somalia, South Sudan, Sudan, Syrian Arab Republic, Timor-Leste, Uganda, United Republic of Tanzania, Yemen and Zambia.**
194. The Committee also **regretted** that the Government of **Solomon Islands**, while accredited to the Conference, failed to participate in the discussion on the application of Convention No. 182 in the country.
195. The Committee noted with **regret** that the Governments of the following Member States which were not represented at the Conference could not participate in the discussion concerning their countries, regarding fulfilment of their reporting and other standards-related obligations: **Dominica, Equatorial Guinea, Gambia, Tuvalu and Vanuatu.**
196. Overall, the Committee expresses **regret** at the large number of cases of serious failure by Member States to respect their reporting and other standards-related obligations. The Committee observes that some governments have provided written information after the session dedicated to examining this question. While acknowledging the efforts made in this regard, the Committee trusts that in the future governments will act swiftly to enable it to carry out this examination in full knowledge of the facts. The Committee recalls that governments may request technical assistance from the Office to overcome their difficulties in this regard.

## E. Adoption of the report and closing remarks

197. The Committee's report was adopted, as amended.

Geneva, 11 June 2022

*(Signed)* Mr Pablo Topet  
Chairperson

Mr Zaman Mehdi  
Reporter