



## Governing Body

323rd Session, Geneva, 12–27 March 2015

GB.323/INS/PV/Draft

Institutional Section

INS

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### DRAFT MINUTES

## Institutional Section

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## Institutional Section

1. The Institutional Section met on Monday, 16, and Friday, 20 March and from Tuesday, 24 March to Friday, 27 March 2015. The Chairperson of the Governing Body, Mr A.J. Correia (Government, Angola), chaired the Section. The Employer Vice-Chairperson of the Governing Body, Mr J. Rønne (Denmark), spoke as Employer coordinator for the Section, except in respect of item 9, Reports of the Committee on Freedom of Association, where Mr C. Syder was coordinator; and item 11, Report of the Director-General, where Mr K. De Meester was coordinator. Mr L. Cortebeek (Belgium), spoke for the Workers.
2. The following Governing Body members chaired the remaining sections and segments of the 323rd Session:

### Policy Development Section

#### *Employment and Social Protection Segment (Thursday, 19 March 2015)*

*Chairperson:* Ms J. Pitt (Australia)

*Employer coordinator:* Ms R. Goldberg

Item 2, Area of critical importance: Creating and extending social protection floors:  
Mr M. Ceretti

Item 3, Conclusions of the Meeting of Experts on Non-Standard Forms of Employment (Geneva, 16–19 February 2015): Ms G. Pineau

*Worker spokesperson:* Mr P. Dimitrov

Item 3, Conclusions of the Meeting of Experts on Non-Standard Forms of Employment (Geneva, 16–19 February 2015): Mr L. Cortebeek

#### *Social Dialogue Segment (Wednesday, 18 March 2015)*

*Chairperson:* Ms F. Kodra (Albania)

*Employer coordinator:* Mr P. Woolford

*Worker spokesperson:* Mr B. Thibault

#### *Technical Cooperation Segment (Wednesday, 25 March 2015)*

*Chairperson:* Mr H. Iddrisu (Ghana)

*Employer coordinator:* Ms J. Mugo

*Worker spokesperson:* Mr M. Guiro

**Legal Issues and International Labour Standards Section**  
(Tuesday, 24 March 2015)

***Legal Issues Segment***

*Chairperson:* Mr G. Corres (Argentina)

*Employer coordinator:* Mr L. Horvatic

*Worker spokesperson:* Ms C. Passchier

***International Labour Standards and Human Rights Segment***

*Chairperson:* Mr G. Corres (Argentina)

*Employer coordinator:* Mr C. Syder

*Worker spokesperson:* Ms C. Passchier

**Programme, Financial and Administrative Section**  
(Monday, 16 – Wednesday, 18 March, and Wednesday, 25 and Friday, 27 March 2015)

***Programme, Financial and Administrative Segment***

*Chairperson:* Mr A.J. Correia (Angola)

*Employer coordinator:* Mr M. Mdwaba

*Worker spokesperson:* Mr S. Gurney

***Audit and Oversight Segment***

*Chairperson:* Mr A.J. Correia (Angola)

*Employer coordinator:* Mr M. Mdwaba

*Worker spokesperson:* Mr S. Gurney

***Personnel Segment***

*Chairperson:* Mr A.J. Correia (Angola)

*Employer coordinator:* Mr P. Woolford

*Worker spokesperson:* Mr S. Gurney

**High-level Section**  
(Monday, 23 March 2015)

***Strategic Policy Segment***

*Chairperson:* Mr A.J. Correia (Angola)

*Employer coordinator:* Mr J. Rønne

*Worker spokesperson:* Mr L. Cortebeek

**Working Party on the Functioning of the Governing Body  
and the International Labour Conference**  
(Friday, 20 March 2015)

*Chairperson:* Mr A.J. Correia (Angola)

*Employer coordinator:* Mr J. Rønnest

*Worker Vice-Chairperson:* Mr L. Cortebeek

**Committee on Freedom of Association**  
(Thursday, 18 to Friday, 19 March 2015)

*Chairperson:* Mr P. van der Heijden (Netherlands)

*Employer coordinator:* Mr C. Syder

*Worker spokesperson:* Mr Y. Veyrier<sup>1</sup>

## **First item on the agenda**

### **Approval of the minutes of the 322nd Session of the Governing Body** (GB.323/INS/1)

#### ***Decision***

- 3. The Governing Body approved the minutes of its 322nd Session.***

(GB.323/INS/1, paragraph 2.)

## **Second item on the agenda**

### **Agenda of the International Labour Conference (2017–19)** (GB.323/INS/2)

- 4. The Chairperson*** recalled that, at its 322nd Session (November 2014), the Governing Body had approved the concept of a strategic and coherent approach to the setting of the Conference agenda for 2017–19, and that three agenda items had been proposed for future sessions of the Conference: effective ILO development cooperation in a changing global context (general discussion); violence against women and men in the world of work (standard setting, double discussion); and labour migration (double discussion).
- 5. The Employer coordinator***, expressing continued support for the strategic and coherent approach, said that the Strategic Policy Framework 2018–21 should be used as the basis for deciding on the Conference agenda. The 2016 evaluation of the impact of the Social Justice Declaration, the other centenary initiatives and the post-2015 development agenda could be fed into the Strategic Policy Framework. It would be important to draw on the

<sup>1</sup> Substituting Mr L. Cortebeek.

experience of the two-week session of the Conference in 2015 to see whether it made sense to continue with three agenda items. He supported the procedural roadmap outlined in paragraph 32 and the proposal in paragraph 33(b) to place the item on the agenda of the 325th Session of the Governing Body (November 2015). While the current three proposed items were all important, his group supported postponing a decision in that respect in order to put them in the proper context. Regarding the item on standard setting on violence against women and men in the world of work, he said that it was extremely important and for that reason further in-depth preparation was needed to discuss its scope and definition and to analyse the need for a labour standard in that regard. Preparations for discussing ILO development cooperation and labour migration should also continue.

6. *The Worker spokesperson* agreed that it was important to take a strategic and coherent approach to setting the Conference agenda. Such an approach would enable the *World Employment and Social Outlook (WESO)* to provide an analytical background for key items on the agenda. His group supported a general discussion on migration for 2018, focusing on fair recruitment and effective governance of migration bilaterally and regionally. Concerning the proposed item on violence against women and men in the world of work, he indicated that his group supported a Convention, supplemented by a Recommendation, for discussion in 2017 and 2018, which would allow time to undertake the necessary preparatory work. There was still no international labour standard on gender-based violence, which affected women disproportionately. Development cooperation could be covered by a Conference discussion on the end of a poverty theme, which would also permit discussion of the ILO's role in the implementation of the post-2015 development agenda.
7. Concerning the governance initiative, his group was not in favour of reducing the number of agenda items for the Conference; a reduction of the duration of the Conference to two weeks should not be allowed to undermine its role as the supreme political organ of the Organization. The relevance of the standard-setting function of the Conference, in the context of the standards initiative, should be reaffirmed. He reiterated his group's proposal for a comprehensive General Survey in 2017 of the working time instruments and said that recurrent discussions under the Social Justice Declaration, the General Survey and the Standards Review Mechanism should be used to identify gaps in standards. Noting that in 2016 there would be a general discussion on decent work in global supply chains, and 2017 would mark the 40th anniversary of the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy, he said that the ILO should, in the context of the enterprise initiative, aim to relaunch that Declaration and conduct a robust follow-up. Discussion of the end of the poverty initiative should cover rights and social dialogue, as well as employment and social protection. The importance of addressing growing inequality was also highlighted. As for the green initiative, it was important for the ILO to promote a just transition to a low-carbon, sustainable development path. The outcomes of forthcoming events such as the Meeting of Experts on Sustainable Development, Decent Work and Green Jobs in October 2015, and the UN Climate Change Conference in Paris should be taken into account in that regard. He welcomed the forthcoming report of the Director-General on the future of the work initiative. The technical departments of the Office, as well as the ILO's constituents, should be able to propose subjects for the agenda of future sessions of the Conference.
8. *Speaking on behalf of the group of industrialized market economy countries (IMEC)*, a Government representative of Norway referred to the comprehensive proposal prepared by the Office which was in line with the decision taken by the Governing Body at its November 2014 session. That meant that a final decision on the Conference agenda for 2017, 2018 and 2019 could be taken at a later session. The implementation of the strategic and coherent approach would depend on new developments and the outcomes of forthcoming discussions. In view of the shortened Conference session, there should be no

more than one standard-setting item on the agenda at a time. In 2017, the agenda of the Conference already included a standard setting item – namely the second discussion on the revision of Recommendation No. 71, as well as the recurrent discussion on fundamental principles and rights at work. Therefore, the third item that could be added was the proposed item on development cooperation as a general discussion and as a follow-up to the 2016 evaluation of the impact of the Social Justice Declaration. For 2018, in the lead up to the 2019 centenary session, her group would be in favour of including an item on the women at work initiative. The proposed discussion on violence against women and men in the world of work would fit well in that regard. IMEC looked forward to further consultations on the format of that item. Her group supported the inclusion of a general discussion on labour migration in 2018, in preparation for discussions on issues arising out of the future of work initiative in 2019. It was hoped that the report of the Director-General on that initiative, to be presented at the forthcoming session of the Conference, would provide clarity on what the initiative would consist of and how it would be undertaken. IMEC supported the procedural roadmap and the draft decision.

9. *Speaking on behalf of the Africa group*, a Government representative of Kenya supported the implementation of the strategic and coherent approach to the setting of the Conference agenda, and noted and endorsed the actions to be taken with regard to the three items proposed for future Conference sessions as described in Appendix III. He sought further clarity, however, concerning the type and nature of the standard to be developed on violence against women and men in the world of work. He noted and endorsed the procedural roadmap and the request to place the item on the agenda of the 325th Session of the Governing Body.
10. *A Government representative of Turkey* emphasized his Government's commitment to the strategic and coherent approach to the setting of the Conference agenda. In that respect, effective ILO development cooperation in a changing global context was an important topic for a general discussion. It would revitalize the commitment to putting the Decent Work Agenda into practice. Although the item was worthy of being discussed at the centenary session in 2019, he was not opposed to it being discussed in 2017. He strongly supported the inclusion of labour migration for a general discussion in 2018, and suggested that the topic should include post-migration problems faced by migrants as a priority area for action. That would help to establish stronger linkages with the implementation of the post-2015 sustainable development agenda.
11. *A Government representative of France* said that, at the 322nd Session of the Governing Body, France had supported the proposed strategic and coherent approach to agenda setting up to 2019. Noting that flexibility needed to be built into the approach, he said that the 2016 evaluation of the impact of the ILO Declaration on Social Justice for a Fair Globalization would undoubtedly prove useful in determining which agenda items to retain through to 2019. Care should be taken to ensure that important issues were not sidelined. For example, violence against women and men in the world of work was very important, and should be on the agenda no later than 2018.
12. *A Government representative of the United States* voiced strong support for a standard-setting item on violence against women and men in the world of work. Gender-based violence was the most prevalent human rights violation globally. In the United States, an estimated 2 million workers suffered workplace violence annually. Costs to businesses included, inter alia, employee absence, reduced productivity and increased security costs. As women were at increased risk, special attention must be paid to sectors with a disproportionately high number of women workers, such as domestic work and the apparel industry. Moreover, more should be done to address the fact that sexual violence often pushed women out of their chosen fields, particularly the sciences and technology.

The ILO's resources and expertise were uniquely suited to addressing those problems, and the Governing Body should place the item on violence on the agenda.

13. *A Government representative of Japan* welcomed the strategic and coherent approach, and agreed that it was not appropriate to set the Conference agendas for 2017, 2018 and 2019 at the current Governing Body session. Japan was in favour of including the proposed item on effective ILO development cooperation in a changing global context on the 2017 Conference agenda. The importance of the topic was highlighted and a Conference discussion should include an evaluation of the effects of the review of field structures that had begun in 2013. The item on non-standard forms of employment, which had been removed from consideration pending further work by the Office, should be placed on the Conference agenda as soon as possible as it captured the new challenges facing the world of work. The Office was requested to undertake further work, taking into consideration the final report of the Meeting of Experts on Non-standard Forms of Employment, which should be taken into account in the 2015 recurrent discussion on labour protection, and the outcome of that discussion at the forthcoming session of the Conference. Similarly, the item on the resolution of labour disputes should be considered as a potential future agenda item, given its relevance for all member States. Japan supported the draft decision.
14. *A Government representative of Brazil* said that, while the discussion had made it clear that the strategic and coherent approach enjoyed broad support, it remained unclear how much support there was for each individual proposed agenda item. Recourse should be made to section 6.2 of the compendium of rules applicable to the Governing Body of the International Labour Office. Brazil supported a general discussion on labour migration and was of the view that gender issues, as encapsulated in the second proposed item, should be on the agenda before 2019. It also supported development cooperation in the framework of the end of poverty initiative. However, the draft decision should be re-worded so as to yield a more concrete outcome.
15. *A Government representative of Mexico* supported the strategic and coherent approach and the roadmap for its implementation, particularly the proposed consultations with constituents and opportunities for them to propose agenda items for future sessions. Mexico especially supported the inclusion of the proposed items on labour migration and violence against women and men in the world of work. Consideration should be given to a general discussion on labour migration in 2016, with a focus on two priorities: processes to ensure fair contracts for migrant workers; and fair and efficient governance of migration and labour mobility at the bilateral and regional levels. Mexico was in favour of standard setting in 2017 on the issue of violence against women and men in the world of work, and supported the draft decision.
16. *The Employer coordinator* reiterated his view that it was worth examining whether other instruments could more effectively address the issue of violence against women and men in the world of work than a standard-setting discussion.
17. *A representative of the Director-General* (Director, International Labour Standards Department (NORMES)) recalled that the intention had been to seek guidance on the proposed items at the current session, in preparation for the 325th Session when concrete decisions would be made, in particular to complete the agenda of the Conference for 2017. The emerging consensus on the importance of the item relating to the question of violence against women and men suggested that it could be included on the 2017 Conference agenda. Before the following Governing Body session, the Office would undertake further work in order to provide clearer elements to support the proposal made for standard setting on that subject, including information on preparatory work already undertaken, the possible content and the added value of standard setting. Consideration would be given to whether the holding of a general discussion on the topic prior to standard setting would be

necessary. Further work would also be needed to consider the linkage between the item on development cooperation and the end of poverty initiative. Finally, she signalled that at the Governing Body session in November 2015, constituents would have the opportunity to consider the selection of the proposed instruments that could be the subject of the next General Survey, to be undertaken by the Committee of Experts in 2017. The Governing Body would consider the report form for the General Survey in March 2016. She proposed new wording for the draft decision, to reflect the discussion.

### **Decision**

- 18. *The Governing Body decided to place this item on the agenda of its 325th Session (November 2015) with due consideration given to the discussion that took place at the 323rd Session (March 2015).***

(GB.323/INS/2, paragraph 33, as redrafted by the Governing Body.)

### **Third item on the agenda**

#### **Preparation for the evaluation of the impact of the ILO Declaration on Social Justice for a Fair Globalization by the 105th Session of the International Labour Conference (2016)**

(GB.323/INS/3)

- 19.** *The Employer coordinator* said that the scope of the upcoming evaluation of the ILO Declaration on Social Justice for a Fair Globalization was determined by the Declaration itself; the evaluation should identify actions taken by the tripartite constituents as a result of the Declaration, and steps taken by the Governing Body and the Office to follow up on governance capacity and knowledge-based issues in pursuit of the ILO's four strategic objectives. The Office and the constituents should not go beyond what had been decided when the Declaration had been adopted. Once the evaluation had been carried out, it would be possible to draw linkages with the centenary initiative, the post-2015 development agenda and the 2018–21 Strategic Policy Framework. It was difficult to anticipate what the priorities for the evaluation should be when information on actions taken and their consequences was still lacking. Intense activity should be carried out to obtain that information. It would be important for the questionnaire to obtain relevant information on policy coherence from different ministries and institutions.
- 20.** The review of the recurrent discussion model, mentioned in paragraph 16, should be undertaken as a separate exercise and addressed as a technical rather than a political issue. His group had some doubts as to whether the recurrent model for discussion was the best one. The strategic objective to be addressed by the 2018 recurrent discussion did not need to be fixed at the 325th Session of the Governing Body.
- 21.** Regarding paragraph 25, on modalities for the Conference discussion, partnership with multinational enterprises and the private sector had been foreseen in the Declaration but there was no reason to change the rules on participation in Conference discussions: the Employers' group was the channel for further future involvement of multinational enterprises. Those involved in the creation of the Declaration should be included in the group for consultation. He asked whether the Evaluation Office of the ILO had contributed or would contribute to the evaluation process. The Employers supported the schedule

outlined in paragraph 30, with the exception of the discussion on the next cycle of recurrent discussions proposed for November 2015. His group supported the draft decision.

22. *The Worker spokesperson* agreed that the broad objective of the evaluation should be to strengthen the Declaration's impact in the run-up to the ILO centenary and beyond. The evaluation should be a forward-looking policy exercise; the links with relevant activities proposed in paragraph 7 were therefore welcome. The enabling nature of the rights enshrined in the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), would deserve a particular focus. The 2017 recurrent discussion should be used to review the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work, in light of its revision in 2010 and its alignment with the Declaration, with a focus on achieving universal ratification and effective implementation of the fundamental Conventions; coordination with the 2016 evaluation would be important. The ILO's role in the multilateral system as it approached its centenary was also a priority for the evaluation.
23. On the questions posed in paragraph 16, the Declaration, along with the Declaration of Philadelphia (1944), provided a platform for setting rules for fair globalization. Therefore, the Organization should use the 2016 Conference discussion and the years leading to 2019 to strengthen implementation mechanisms and test new ones, in order to remain the primary arbitrator of labour matters and promoter of socially just growth. In that regard, the Conference discussion should review the four strategic objectives to check whether there were still policy gaps. Constituents should be invited to share information on positive outcomes or persisting challenges with regard to the strategic objectives, and the discussion should provide detailed guidance on the implementation of Parts I(B) and I(C) of the Declaration, as well as addressing the cross-cutting issues of gender equality and non-discrimination.
24. Parts II(A) and II(B) of the Declaration should be comprehensively addressed by the Office and the constituents respectively (paragraph 12). As concerned the Organization as a whole, it was particularly important to review how it had helped member States and representative organizations to facilitate coherent social policy and sustainable development. Under Part II(A), the discussion should also provide practical guidance on how to immediately begin the peer reviews envisaged in paragraph (iii) and focus on how the ILO could provide assistance to Members to promote the strategic objectives within the framework of bilateral and multilateral agreements (paragraph (iv)). New partnerships with multinationals and global-level unions (paragraph (v)) should be addressed with reference to supply chains. As concerned member States, new dimensions that would deserve attention under Part II(B) were: the regional dimension of decent work evoked in paragraph (i); indicators or statistics (paragraph (ii)), including in view of the expected approval of the sustainable development goals; the review of Members' situation as regarded the ratification and implementation of ILO instruments with a view to achieving an increasing coverage of each of the strategic objectives (paragraph (iii)); the sharing of national and regional good practices to implement decent work (paragraph (vi)); and the provision of assistance to Members' efforts to give effect to the Declaration (paragraph (vii)).
25. With regard to the third point under paragraph 16, Part II(C) of the Declaration was fairly explicit, and the discussion should focus on how other international and regional organizations promoted decent work, and what they committed to do in the future. Furthermore, guidance should be provided on how the ILO should assess the employment effects of trade and financial market policies.

26. There should be a five-year recurrent discussion cycle, which would allow social security to remain separate from labour protection; and the link between recurrent items and the General Surveys should be maintained, with the latter being discussed one year ahead of the recurrent discussion items. A decision on the next recurrent discussion cycle at the 325th Session of the Governing Body was preferable to an ad-hoc decision for 2018 only.
27. With regard to the proposed questionnaire to be sent to member States, questions on policy coordination and coherence, and information on any reviews conducted by member States of ratification or implementation of ILO instruments, were key. The participation of international organizations in the evaluation was important but should not be limited to the proposed interactive panel discussion (paragraph 23). The inclusion of ministries other than ministries of labour would enhance the impact of the discussion, notably with regard to policy coherence. While it was important that the Office raised awareness about the discussion to take place, it was not its role to “involve other actors” (paragraph 29): “representative employers’ and workers’ organizations” would be democratically selected and included by the Employers’ and Workers’ groups. He agreed with the proposed schedule and supported the draft decision.
28. *Speaking on behalf of the Asia and Pacific group (ASPAG)*, a Government representative of China said that the evaluation must be primarily concerned with progress made towards the objectives of the Declaration through the Decent Work Agenda, and the effectiveness of ILO support to member States and the social partners in those areas. As the recurrent discussions provided the main means of follow-up to the Declaration, the evaluation should cover their nature, modality, cycle and outcomes. The evaluation should include relevant international organizations, with a view to addressing macroeconomic policy coherence. The ILO should make full use of its existing data concerning the outcome of the programme and budget implementation since 2008. Independent external evaluators should be hired to ensure objectivity. The Evaluation Office should participate actively in the evaluation.
29. *A Government representative of India* appreciated the approach of drawing linkages between the Declaration and the ILO centenary initiatives, the recurrent discussion at the International Labour Conference in 2017 and the post-2015 sustainable development agenda. The proposed questionnaire should cover all four strategic objectives and the efforts made to meet them by member States and the ILO. With regard to paragraph 16, progress under the Declaration should be analysed in relation to Decent Work Country Programmes (DWCPs). Evaluation of the recurrent discussions should be included in the scope of the exercise. Otherwise, it should be strictly limited to the assessment of mechanisms put in place to implement the Declaration and should not extend to initiatives undertaken by governments in their sovereign capacity. He supported the schedule (paragraph 30) and took note of the scope of and arrangements for the evaluation (paragraphs 11–29). While the participation of multilateral organizations through a panel discussion at the Conference was welcome, their contributions should be limited to the scope of the Declaration. The ILO must remain true to its principles and objectives when working with other international organizations, and must approach collaborations guarding against the possibility of conditionality.
30. *A Government representative of Trinidad and Tobago* said that, given the importance of the evaluation with regard to the ILO’s strategic orientation beyond its centenary, it should be comprehensive and inclusive, with all relevant stakeholders taking part. Constituents and stakeholders should be made aware, before the distribution of the questionnaire, of the significance of the evaluation; that could be achieved without great cost to the Organization. The envisaged important role for the field offices in receiving responses to the questionnaire was welcome, and the ILO should strive to achieve a 100 per cent response rate.

31. *Speaking on behalf of the Africa group*, a Government representative of Ghana said that the Africa group would postpone its substantive responses to the questions posed in paragraph 16 until after the upcoming meeting of the African Union Specialised Technical Committee on Social Development, Labour and Employment. By way of initial observations, the evaluation must give due regard to regional specificities; the capacity of the labour administration and inspection system in Africa was limited, for example. With regard to the impact of the Declaration, the ILO might wish to identify to what extent the trade or financial policies of its partner international organizations had promoted decent work. The Yaoundé Tripartite Declaration on the implementation of the Social Protection Floor, the conclusions of 11 African Regional Meetings and the Declaration on Employment and Poverty Alleviation in Africa provided a useful roadmap for assessment of the Declaration's impact in the region. Furthermore, the evaluation could inform ILO support to African member States in the implementation of the 2015 Declaration and Plan of Action on Employment, Poverty Reduction and Inclusive Development in Africa, and the African Union's Agenda 2063.
32. *Speaking on behalf of IMEC*, a Government representative of Australia supported the linkages set out in paragraphs 6–10. The Office should have further developed certain elements of the evaluation in preparation for the current session. For example, a draft questionnaire could have been provided for comment by the Governing Body, with the questions in paragraph 16 having been largely resolved through internal discussion and informal consultations. Such an approach would have been in keeping with the Governing Body's role, which was to provide high-level guidance on the methodology for the evaluation. While it was important that the questionnaire should cover policy coherence, it would also be valuable to include questions concerning assistance from the Office, instances of the outcome of the recurrent discussions influencing policy and programme development at the national level, and the inclusion of employment and labour issues in UN Development Assistance Frameworks. With regard to the review of the recurrent discussion model, IMEC maintained its position: the evaluation should cover the modalities for recurrent discussions, including their seven-year cycle. The schedule appeared to be reasonable, but the Office would need to move swiftly to finalize the questionnaire by April 2015. He supported the draft decision.
33. *A representative of the Director-General* (Deputy Director-General, Management and Reform (DDG/MR)) clarified that the Evaluation Office would be consulted throughout the process, although the evaluation was not one of its formal projects. Responding to IMEC, he said that the paper had been the subject of detailed consultations with the tripartite group, whose view had been to outline the current framework and start the process set out in paragraph 30.

## **Decision**

### **34. *The Governing Body:***

- (i) *provided further guidance on the preparation of the evaluation of the impact of the ILO Declaration on Social Justice for a Fair Globalization, including on the proposed schedule set out in paragraph 30 of document GB.323/INS/3; and*
- (ii) *placed this item on the agenda of its 325th Session (November 2015).*

(GB.323/INS/3, paragraph 31.)

## Fourth item on the agenda

### Follow-up to the resolution concerning remaining measures on the subject of Myanmar adopted by the Conference at its 102nd Session (2013) (GB.323/INS/4 and GB.323/INS/4(Add.))

35. *A Government representative of Myanmar* said that his Government wished to thank the Office and the ILO Liaison Officer for their cooperation and goodwill towards his country. Since 2011, his Government had implemented wide-ranging reforms with the twin objectives of establishing peace, stability and the rule of law, and achieving social and economic development. Substantial progress had been made, including the adoption and enactment of a number of labour laws. In particular, the entry into force of the Labour Organization Law had led to the creation of independent workers' and employers' organizations. Myanmar had joined the Association of Southeast Asian Nations (ASEAN) Economic Community (AEC), which would become operational in 2015 and which aimed to strengthen regional economic cooperation and increase regional trade. Furthermore, the adoption of the Foreign Investment Law in November 2012 spoke of the Government's commitment to creating a vibrant economy and encouraging foreign direct investment. Nevertheless, the protection and promotion of labour rights remained a high priority. Seventy local companies in Myanmar had so far joined the UN Global Compact and a programme on responsible business had been established to promote the UN Guiding Principles on Business and Human Rights. Furthermore, Myanmar had been accepted as a candidate member to the Extractive Industry Transparency Initiative in July 2014. The Government was committed to the elimination of forced labour through the implementation of the Joint Action Plan on the Elimination of Forced Labour by 2015 and the extension of the Supplementary Understanding, with a view to continuing its work with the ILO. However, the draft decision before the Governing Body was premature. An assessment of progress made should be carried out internally before it was imposed unilaterally. A discussion could then be held with the ILO Liaison Officer to establish a way forward. Accordingly, the decision should be postponed to the November 2015 session of the Governing Body. If that was not possible, the Governing Body should consider amending the date in the draft decision point (a) to March 2016, and replacing the word "report" in point (b) with "information report". His Government was confident that it could continue to work together with the ILO on the basis of better mutual understanding.

36. *The Worker Vice-Chairperson* said that, while some progress had been made with regard to forced labour, there were a number of areas where the practice continued. In that regard, the sharp drop in the number of prosecutions was of major concern and the Office should provide more information to determine whether sanctions, where imposed, were sufficient. In particular, the group was concerned that those further up the chain of command had largely avoided sanctions of any kind. The November 2015 session of the Governing Body should discuss the possible extension of the Joint Action Plan, and the Freedom of Association and Social Dialogue in Myanmar project should also be continued and strengthened. There was an urgent need to amend the Labour Organization Law and the Settlement of Labour Dispute Law, and the ILO should work with the Government of Myanmar to identify other priority legislative reforms. Although improvements had been seen with regard to legislation on freedom of association, substantial obstacles to the full exercise of fundamental labour rights remained. The group was disappointed that the Committee of Experts had not yet fully commented on legislation that clearly violated Convention No. 87, and that it had not addressed the specific cases brought to its attention. While a number of labour federations and confederations had been recognized, they had

not yet been registered and the group urged the President of Myanmar to direct the Chief Registrar to proceed to those registrations. Cases of anti-union harassment were of great concern. The Settlement of Labour Dispute Law did not provide adequate tools to prevent such practices and, despite calls for its abolition, section 18 of the Peaceful Assembly and Procession Act remained in force. Regarding foreign investment, a large proportion of investors were not applying policies on human rights or due diligence, a finding that echoed concerns previously raised by local communities. Accordingly, the ILO should increase its engagement with multinational enterprises and further promote ILO standards and the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy.

37. *The Employer coordinator* said that his group hoped that the tempo of progress on the elimination of forced labour and the promotion of freedom of association would be maintained. His group supported the work of the ILO and called on donors to support ILO projects in Myanmar. He supported the draft decision.
38. *Speaking on behalf of ASPAG*, a Government representative of China said that the extension of the Supplementary Understanding provided evidence of the commitment of the Government of Myanmar to continue working with the ILO. Myanmar was a country in transition, and he urged the ILO to assist in achieving practicable strategies for the elimination of forced labour. He requested the Office to publish draft decisions in sufficient time in the future.
39. *Speaking on behalf of the European Union (EU) and its Member States*, a Government representative of the Netherlands said that the following countries aligned themselves with the statement: Turkey, the former Yugoslav Republic of Macedonia, Montenegro, Serbia, Albania, Republic of Moldova and Switzerland. While welcoming the extension of the Supplementary Understanding and noting the positive steps taken and progress achieved in Myanmar, he called on the Government to address areas of continuing concern. Regarding the use of child labour, more remained to be done with both Government forces and non-state armed groups, in particular to end ongoing recruitment. The Government of Myanmar should work with the Office to review and revise its existing labour laws, and promote investment and development. The EU was working with the authorities of Myanmar, the private sector, civil society and the population, to help create the best possible regulatory environment and to promote responsible investment in the country. He supported the draft decision.
40. *A Government representative of Venezuela* said that his Government welcomed the reforms undertaken by the Government of Myanmar and the progress achieved with the support of the ILO. The Office should continue to provide all the technical cooperation required to eliminate forced labour. He requested the Office to observe the deadlines for the publication of draft decisions established by the Standing Orders of the Governing Body.
41. *A Government representative of Australia* said that the Government should continue working with the ILO on implementation of the Joint Action Plan. Her Government looked forward to receiving an update on progress made and on outstanding actions in November 2015. Australia remained committed in its support of the reform process.
42. *A Government representative of India* said that the promotion of trust and the betterment of labour should be the ultimate aim of every member State. To that end, the respect of workers' rights was of paramount importance, and the promotion of dialogue and cooperation was essential in resolving all labour-related issues. He urged the ILO and all member States to continue to extend their assistance and guidance to enable Myanmar to move forward on the path of reform.

43. A *Government representative of the United States* encouraged the Government to continue consulting regularly with employers and all representatives of organized labour on labour policies and programmes, and expressed concern regarding the implementation of the Joint Action Plan. Although there had been numerous prosecutions of military personnel, no prosecutions of non-military perpetrators in the public or private sector had taken place since the criminalization of forced labour in 2012. The Government must hold all perpetrators accountable. It was worrying that the training programme outlined in the Joint Action Plan had stalled. The planned training for the military and police was critical to ensure that the Government was able to assume responsibilities for investigation and prosecution. The arrest, prosecution and continued detention of Captain Chit Ko for contacting the ILO raised serious questions about the Government's commitment to labour reform. The Government should drop the charges and release him immediately. Further legal reform was needed to remove barriers to the official registration of existing workers' organizations, foster collective bargaining, create effective dispute settlement mechanisms and set appropriate penalties. The Government should accelerate its efforts to eliminate forced labour and undertake comprehensive labour reform. She supported the draft decision.
44. A *Government representative of Thailand* commended the progress made by the Government of Myanmar towards socio-economic development and the elimination of forced labour, and said that the country should be given adequate time and space to carry out its ongoing internal reform.
45. A *Government representative of Indonesia*, while welcoming the continued progress made by Myanmar, said that the Government still needed to address a number of issues. Solid commitments by the Government and continued support from the international community and the ILO were important to ensure further improvements and better labour conditions in the country.
46. A *Government representative of Norway* expressed concern that the Government of Myanmar had not taken sufficient advantage of the support provided by the ILO. More measurable results needed to be seen, and the Government should take the necessary steps to address the remaining concerns. Regarding the review of labour law currently under way, it was hoped that the efforts of the ILO, in collaboration with the Government and other donor countries, would result in a comprehensive and coherent labour code. He supported the draft decision.
47. A *Government representative of Cuba* said that the participation of the ILO had been essential in the progress made by Myanmar. It also demonstrated that cooperation in all forms was the best way to overcome obstacles and achieve results.
48. A *Government representative of Cambodia* said that strong commitment from the Government of Myanmar was still required in multiple areas to ensure further progress and improvement of labour issues in the country. In order to guarantee safe and sound labour conditions in Myanmar, cooperation and dialogue between all relevant parties were necessary, as was support from the ILO.
49. A *Government representative of China* said that the positive actions taken by the Government of Myanmar and its cooperation with the ILO should be fully recognized by the Governing Body. He supported the Myanmar Government's proposal to postpone the draft decision.

## **Decision**

**50. *The Governing Body noted that while progress had been made, a number of fundamental activities required under the Action Plan for the Elimination of Forced Labour in Myanmar by 2015 had not yet been implemented. In that context the Governing Body:***

- (a) requested the Director-General to prepare a report for consideration at the 325th Session of the Governing Body (November 2015) on the implementation and possible need for extension of the Action Plan, the status of any outstanding individual cases including those specifically referred to in the report, and steps necessary to ensure prosecution and accountability of those who had exacted forced labour; and***
- (b) called on the Government of Myanmar to take all necessary actions to ensure compliance with the Forced Labour Convention, 1930 (No. 29), and requested the Government to submit, to the 325th Session of the Governing Body (November 2015), a report on the measures it would take to do so in the shortest possible time.***

(Document GB.323/INS/4(Add.), paragraph 1.)

## **Fifth item on the agenda**

### **The Standards Initiative**

(GB.323/INS/5)

(GB.323/INS/5/Appendix I)

(GB.323/INS/5/Appendix II)

(GB.323/INS/5/Appendix III)

**51. *The Employer coordinator*** welcomed the document, which gave a fair and balanced account of what had been achieved in the November session of the Governing Body and the Tripartite Meeting held in February 2015 on the right to strike. Those results were important in breaking the deadlock that had prevented the ILO supervisory system from operating properly, but were only a first step towards ensuring an effective and well-functioning supervisory system. The Employers remained committed to finding solutions to the many problems described in the document. It was important to abide by the timetable given in paragraph 19, while progressing one step at a time towards a solution. The joint statement of the Workers and Employers stated the need to clarify and streamline supervisory procedures, including the role and mandate of the Committee on Freedom of Association (CFA). It would indeed be advisable for the Chairperson of the CFA and the Chairperson of the Committee of Experts on the Application of Conventions and Recommendations (CEACR) to prepare a report on the interrelationship, functioning and possible improvement of the various supervisory procedures, as proposed in paragraph 20. The tripartite partners should be closely involved in its preparation and drafting. His group supported the draft decision in paragraph 25.

**52. *The Worker Vice-Chairperson*** clarified some points in relation to the joint statement presented by the Workers and Employers at the tripartite meeting held in February 2015. The joint statement did not attempt to resolve all the problems, but it did allow the ILO to resume the unimpeded supervision of international labour standards, which was crucial to

the promotion of decent work everywhere. Nor did the statement mean that the Workers' view on the right to strike had changed. The right to strike was fundamental to democracy and a fundamental option for workers. It was protected by the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87). He welcomed the commitment of the Employers' group, despite their disagreement on the interpretation of that Convention, to restore mature industrial relations and to acknowledge the right of workers to take industrial action in support of their legitimate industrial interests. He endorsed the Government group's statement reaffirming that the right to strike was an intrinsic corollary of the right of freedom of association. Perhaps the most important element of the joint statement by the social partners was the recognition of the mandate of the CEACR, since it should permit the resumption of normal supervision of cases in the Conference Committee on the Application of Standards (CAS).

- 53.** On the draft decision, he welcomed subparagraph (a). His group looked forward to the discussion in the Working Group on the working methods of the CAS, since it should guarantee that the CAS henceforth operates normally. The Workers and the Employers had agreed to a methodology for the selection of a long and a short list of cases and for the drawing up of consensus-based conclusions with enhanced participation by the social partners. His group therefore supported subparagraph (c). As the Workers' group had agreed to the launching of the Standards Review Mechanism (SRM), and given the prevailing atmosphere of trust and mutual respect between the social partners, it was in favour of subparagraphs (d) and (e) on the Tripartite Working Group to be established under the SRM and its composition. Since a joint report from the Chairpersons of the CEACR and the CFA could provide useful insights into the functioning and possible improvement of the supervisory system, the Workers endorsed subparagraph (f). They likewise agreed with subparagraphs (g) and (b), because they no longer sought referral to the International Court of Justice of the interpretation of the right to strike under Convention No. 87.
- 54.** *Speaking on behalf of the Government group*, a Government representative of Italy expressed her appreciation of the social partners' constructive approach to dialogue. She emphasized that the Government group recognized that the right to strike was linked to freedom of association, which was a fundamental principle of the ILO. It specifically recognized that freedom of association, in particular the right to organize activities for the promotion and protection of workers' interests, could not be fully realized without protecting the right to strike, which albeit part of the fundamental principles and rights at work of the ILO, was not an absolute right. The scope and conditions of that right were regulated at the national level. Hence member States were responsible for the effective implementation and observance of labour standards.
- 55.** The process of nominating nine countries to participate in the Working Group on the working methods of the CAS was complete. The CAS itself might wish to revise the composition of the Working Group in order to reflect the particular regional structure of the Government group. Observers without speaking rights would be able to attend meetings of the Working Group. As to the Working Group on the SRM, her group intended to complete the process of nominating the 16 government participants and of identifying a suitable independent Chairperson before the Governing Body session in June 2015. In order to contain costs and allow for more intense discussions, the Working Group should meet once a year for one week. She agreed that the Chairpersons of the CEACR and the CFA should be requested to jointly prepare the report mentioned in paragraph 20. While agreeing with the financial provisions suggested in paragraph 25(g), she requested clarification of the alternative methods of financing mentioned therein. Lastly, she proposed a number of amendments, which had been circulated in a paper distributed the previous day.

- 56.** *Speaking on behalf of the Group of Latin American and Caribbean Countries (GRULAC)*, a Government representative of the Bolivarian Republic of Venezuela said that GRULAC had played an active role in the Tripartite Meeting held in February 2015, at which the Government group had reached a common position recognizing the link between freedom of association and the right to strike. It was regrettable that the findings and recommendations of the CAS Working Group had not been submitted to the Working Group on the Functioning of the Governing Body and the International Labour Conference. That procedure should be followed in future. As for the SRM, it would be advisable to consider whether it was really necessary for the Tripartite Working Group to meet twice a year for three days. His group agreed with the time frame proposed in paragraph 19 and was in favour of the joint report mentioned in paragraph 20, which should be presented to the 326th Session of the Governing Body. Lastly, the decision adopted at the current session should be reviewed at the 328th Session, without prejudice to the prior consideration of any other issue arising in respect to the topic which might prove necessary. He supported the draft decision in paragraph 25, subject to the amendments proposed by the Government group.
- 57.** *Speaking on behalf of ASPAG*, a Government representative of China welcomed the fact that the social partners had reached agreement on the standards initiative, without the need to refer the matter to the International Court of Justice. Selection of the cases submitted to the CAS should be depoliticized and based on objective criteria. The list should be balanced between fundamental and technical Conventions, geographical representation and a country's level of development, and should be released before the opening of the Conference. As to the newly launched SRM, it could ensure a clear, robust and up-to-date body of standards, meeting the needs and challenges of the current world of work. All international labour standards, except outdated, withdrawn, replaced or recently consolidated standards, should be subject to discussion and, if so agreed, reviewed. Concerning the joint report referred to in subparagraph (f) of the draft decision, it was important that the work of the various supervisory mechanisms should not overlap. The roles and mandates of the CFA should therefore be clarified, as should those of regular supervision procedures under articles 24 and 26 of the ILO Constitution. His group supported the draft decision.
- 58.** *Speaking on behalf of the Africa group*, a Government representative of Kenya expressed appreciation of the fact that tripartite dialogue had prevailed in resolving the issues raised by Convention No. 87 in relation to the right to strike and the modalities and practices of strike action at the national level. His group looked forward to working closely with the social partners with a view to fully re-establishing the effective functioning of the CAS, including the planned review of the entire supervisory system. It proposed that government delegates be funded from the budgetary provisions mentioned in subparagraph (g) of the draft decision, in order that they could attend the Tripartite SRM Working Group. It supported the draft decision, as amended by the Government group.
- 59.** *Speaking on behalf of IMEC*, a Government representative of the United States welcomed the progress made in relation to the Standards Initiative, especially the outcome of the Tripartite Meeting on Convention No. 87 in relation to the right to strike. That meeting had created a new momentum of trust between the social partners and of unity among governments. The package of measures set out in the joint statement of the social partners and the two statements by the Government group showed the way towards an effective and lasting solution to the issues surrounding the ILO's supervisory system. IMEC supported the reactivation of the CAS Working Group and its proposed agenda. An independent chair should be appointed from the Government group in addition to the nine Government members. Governments should not be involved in drawing up the list of individual cases to be reviewed by the CAS, whose conclusions would provide constituents with valuable guidance.

60. The SRM should be launched as soon as possible; however, some clarifications and modifications were needed. While IMEC could support the objectives of the SRM as set out in paragraph 9 of document GB.323/INS/5, care should be taken not to overburden the process. The main focus should be on arriving at a body of up-to-date standards. A follow-up mechanism should be included, to ensure that standards in need of revision were put on the agenda of the International Labour Conference within a reasonable time frame. Her group agreed that the ILO Declaration on Social Justice for a Fair Globalization was the right framework for the SRM and concurred with the role of the Legal Issues and International Labour Standards Section of the Governing Body, as outlined in paragraph 14. It was in favour of establishing the SRM Working Group defined in paragraph 15 and of appointing an independent chair from the Government group, in addition to the 16 Government members. The members of the Working Group should have expert knowledge of the ILO's legal framework and it should be possible to vary the membership according to the expertise needed for the standards under review. The Working Group required clear terms of reference to ensure that the work of the Cartier Working Party was not duplicated.
61. When selecting the standards to be reviewed, careful consideration should be given as to whether to exclude the fundamental and governance Conventions, since they had special status. Her group agreed with the contents of paragraph 16(2) and with the suggested time frame, on the understanding that it could be adapted if necessary. The joint report referred to in paragraph 20 should be discussed at the 326th Session (March 2016). She trusted that its examination would not compromise the independence of the CEACR. She requested clarification of the costs mentioned in paragraph 22. In order to contain costs, the SRM Working Group should meet for one week, once a year.
62. *Speaking on behalf of ASEAN*, a Government representative of Cambodia welcomed the outcome of the Tripartite Meeting held in February 2015 and the efforts to ensure the effective functioning of the CAS. The criteria for the selection of cases to be submitted to the latter should be objective and well-balanced between fundamental and technical Conventions, geographical representation and the country's level of development. ASEAN was in favour of launching the SRM. It was crucial to clarify the roles and mandates of the CFA and the articles 24 and 26 procedures. ASEAN supported the draft decision as it stood in paragraph 25.
63. *A Government representative of France*, noting that the effective application of international labour standards was at the core of the Organization's work, welcomed the restored capacity for dialogue within the Governing Body, the willingness of the constituents to ensure the effective functioning of the labour standards system, and the re-launch of the SRM. The important statement delivered by Governments at the Tripartite Meeting in February should have been mentioned in the draft decision. Governments were willing to consider the conditions for exercising the right to strike; however, conflicting interpretations emerging from the CAS could threaten the legitimacy of tripartism. There was still no legitimate procedure for resolving the interpretation question concerning Convention No. 87 and other possible interpretation questions. His Government was still in favour of establishing a flexible, low-cost interpretative body under article 37(2) of the Constitution that would convene at the express request of the Governing Body.
64. *A Government representative of Indonesia* welcomed the outcome and report of the Tripartite Meeting. In particular, he welcomed the efforts by the social partners to issue a joint statement concerning a package of measures to find a possible way out of the existing deadlock in the supervisory system. Underlining the importance of tripartite dialogue, he hoped that the constructive atmosphere would continue. He supported the efforts to establish an SRM.

65. A *Government representative of Japan* said that the dispute on supervisory mechanisms should be resolved through internal tripartite consultation. In that regard, he welcomed the efforts made at the Tripartite Meeting to reach consensus. He agreed with the proposal in the joint statement by the Workers and Employers that the list of cases chosen for the CAS should be based on objective criteria and be balanced between the fundamental and technical Conventions, geographical representation and a country's level of development. In the light of the proposal that no conclusions would be issued in the absence of consensus, however, he said that the Employers and Workers should give due consideration to ensuring that such a situation did not arise, as it would undermine the role of the CAS. He would welcome a report on the inter-relationship, functioning and possible improvement of the supervisory procedures.
66. A *Government representative of Germany* welcomed the progress made and the efforts made by the social partners in particular to overcome the deadlock. Much remained to be done, however, and his Government was willing to take an active part in the process.
67. A *Government representative of Brazil* hoped for a final consensus, including on the application of article 37 of the Constitution. The interpretation question should be resolved by the International Court of Justice, rather than by an internal ILO tribunal. The right to strike was formally recognized in the International Covenant on Economic, Social and Cultural Rights, as well as in the founding instruments of regional bodies such as the Organization of American States. He supported the establishment of the SRM. More transparent criteria should govern the selection of cases for the CAS. The role of governments, as the bearers of the treaty obligations concerned, could be strengthened. The hierarchy and priority given to the Committee's procedures should be clarified. The frequency of reporting should be reduced, and the supervisory function treated as a unitary process.
68. A *Government representative of India* welcoming the outcome of the Tripartite Meeting, reiterated the importance of tripartite discussion. In that regard, the International Labour Conference was the supreme forum for deciding on matters relating to the world of work. She supported the launch of the SRM and looked forward to a joint report by the Chairpersons of the CEACR and the CFA on the operation and possible improvement of the supervisory procedures related to articles 22, 23, 24 and 26 of the Constitution. Consideration should be given to the burden of reporting, and to new reporting formats.
69. A *Government representative of the United States* reiterated his Government's strong desire to see the ILO's supervisory machinery function fully and effectively and its willingness to work with the other governments and the social partners to that end. Noting with satisfaction the progress that had been made at the Tripartite Meeting, in particular with regard to the framework proposed by the Employers and Workers, he said that he welcomed the renewed spirit of collaboration and commitment to reinvigorating the supervisory system.
70. A *Government representative of Angola*, noting with satisfaction the outcome of the Tripartite Meeting, said that the right to strike was not absolute, being subject to national law. The list of cases to be handled by the CAS should be balanced between the core and technical Conventions, geographical representation and the level of development of the various countries.
71. A *Government representative of Turkey*, noting that the Tripartite Meeting had provided the opportunity for constructive social dialogue, said that the joint statement by the Employers and Workers had given hope that consensus could be reached on a way out of the current deadlock in the supervisory system. He also welcomed the consensus on the mandate of the CEACR, and hoped for a similar consensus on the work of the CAS. He

recalled that the CAS was not a tribunal but rather a platform for tripartite dialogue, and that its conclusions were not court rulings. That principle should be reflected in the wording of the conclusions. Efforts to ensure balance in the list of cases – which should be adopted earlier – should not result in the omission of cases involving more serious breaches. When complaints were made, there should also be an explanation of the steps taken at the national level to resolve the issues.

72. *A Government representative of China*, highlighting the importance of social dialogue, tripartism and technical cooperation, welcomed the positive outcome of the Tripartite Meeting. He supported the proposal in the joint statement by the Workers and Employers that the list of cases chosen for the CAS – which should be ready before the opening of the session of the Conference – should be based on objective criteria and be balanced between the fundamental and technical Conventions, geographical representation and a country's level of development. He agreed that the overall objective of the SRM should be to guarantee the implementation of international labour standards that responded to changing patterns of the world of work, for the purpose of the protection of workers and taking into account the development of sustainable enterprises. He supported the establishment of an SRM Working Group, as proposed in paragraph 17.
73. *A Government representative of the United Kingdom* said that the positive outcome of the Tripartite Meeting demonstrated the unique role that the ILO played in finding sustainable and consensual solutions; its importance should not be underestimated. He noted with satisfaction that plans were in place to ensure the effective functioning of the CAS, and looked forward to a renewed tripartite relationship and the wider benefits that such a relationship would bring. Welcoming the commitment that had been expressed in the Governing Body towards the SRM, he said that his Government would play a constructive role in ensuring that the body of international labour standards was relevant and effective.
74. *A Government representative of Belgium*, highlighting the link between the right to strike and freedom of association, said that further consideration should be given to whether the fundamental Conventions should be covered by the SRM. In that regard, it would be useful to prepare terms of reference. Reaffirming her Government's commitment to ensuring the effective functioning of the CAS, she noted that although significant progress had been made, much remained to be done.
75. *The representative of the Director-General (DDG/MR)* explained that the measures proposed in paragraph 25(g) could be funded through the reallocation of any savings or under-expenditure achieved across the Office, or by using the provisions for unforeseen expenditure provided for under Part II of the budget. It was only when those options were exhausted that consideration would be given to alternative methods of financing. The presentation of the report of the Working Party on the Functioning of the Governing Body and the International Labour Conference later in the session would provide an opportunity for the Governing Body to consider the relationship between the Working Party and the CAS Working Group. There was no provision, in the estimated cost of meetings of the SRM Working Group, for covering the travel costs of Government representatives.
76. *The representative of the Director-General (DDG/MR)*, referring to point (c) of the draft decision, said that no recommendations for the Governing Body had been made at the meeting of the Working Group on the Working Methods of the Committee on the Application of Standards, which had been held on 23 March 2015. The outcome of that meeting would be developed further at the next meeting of the Working Group, in June 2015.
77. *The Employer coordinator* said that his group could support the draft decision as amended by the Government group.

78. *The Worker spokesperson* said that, in general, his group could support the amendments proposed by the Government group, apart from the additional wording suggested in point (b), since it had not been decided at the 322nd Session (November 2014) of the Governing Body not to pursue action in accordance with article 37 of the Constitution.
79. *Speaking on behalf of the Government group*, a Government representative of Italy said that the decision taken in November 2014 contained a reference to deferring further consideration of the possible establishment of a tribunal in accordance with article 37(2) of the Constitution. Her group had wished to recall that decision in the point in question.
80. *The Worker spokesperson* said that, in view of that explanation, a separate point should be added which would refer to action under article 37(1), on which no decision had been taken in November 2014.
81. *The representative of the Director-General (DDG/MR)* suggested that point (b) should be amended to read “pursuant to the decision taken in November 2014, decides, in light of the outcome and the report ...”.
82. *Speaking on behalf of the Government group*, the Government representative of Italy endorsed the wording proposed by the representative of the Director-General.
83. *The Worker spokesperson* and the Employer coordinator also agreed to the wording proposed by the representative of the Director-General.

## **Decision**

**84. *The Governing Body:***

- (a) *took note of the outcome and report of the Tripartite Meeting on the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), in relation to the right to strike and the modalities and practices of strike action at national level;*
- (b) *pursuant to the decision taken at the 322nd Session of the Governing Body (November 2014), decided, in light of the outcome and report of the Tripartite Meeting, not to pursue for the time being any action in accordance with article 37 of the Constitution to address the interpretation question concerning Convention No. 87 in relation to the right to strike;*
- (c) *decided to take the necessary steps to ensure the effective functioning of the Committee on the Application of Standards at the 104th Session of the International Labour Conference (June 2015), taking into account any recommendations made by the Working Group on the Working Methods of the Conference Committee on the Application of Standards, in particular with regard to the establishment of the list of cases and the adoption of conclusions;*
- (d) *called on all parties concerned, in light of the commitments made at the Tripartite Meeting and at the 323rd Session of the Governing Body (March 2015), to contribute to the successful conclusion of the work of the Conference Committee on the Application of Standards at the 104th Session of the International Labour Conference (June 2015);*

- (e) *decided to establish under the Standards Review Mechanism (SRM) a Tripartite Working Group composed of 32 members: 16 representing Governments, eight representing Employers and eight representing Workers to meet once per year for one week;*
- (f) *requested the Director-General to prepare draft terms of reference for the Tripartite SRM Working Group for its consideration and submission to the 325th Session of the Governing Body (November 2015) for decision;*
- (g) *decided that this Tripartite SRM Working Group would report to the Governing Body at its 325th Session in November 2015 on progress made in the implementation of the SRM;*
- (h) *requested the Chairperson of the Committee of Experts on the Application of Conventions and Recommendations (CEACR), Judge Abdul Koroma (Sierra Leone), and the Chairperson of the Committee on Freedom of Association (CFA), Professor Paul van der Heijden (Netherlands), to jointly prepare a report, to be presented to the 326th Session of the Governing Body (March 2016), on the interrelationship, functioning and possible improvement of the various supervisory procedures related to articles 22, 23, 24 and 26 of the ILO Constitution and the complaints mechanism on freedom of association;*
- (i) *decided that the cost of the measures proposed in document GB.323/INS/5 estimated to cost up to US\$226,800 in 2015 and up to \$707,200 in 2016–17 be financed in the first instance from savings in Part I of the budget for the respective bienniums or, failing that, through Part II, on the understanding that should this subsequently prove impossible, the Director-General would propose alternative methods of financing;*
- (j) *decided to place on the agenda of its 328th Session (November 2016) an overall review of this decision, without prejudice to any other issue arising out of the standards initiative requiring prior consideration.*

(Document GB.323/INS/5, paragraph 25, as amended.)

## **Sixth item on the agenda**

### **Complaint concerning non-observance by Guatemala of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), made by delegates to the 101st Session (2012) of the International Labour Conference under article 26 of the ILO Constitution (GB.323/INS/6(Rev.))**

85. *The special representative of the Director-General for Guatemala, providing an update to the report, said that the Office would help to disseminate the general directive issued by the Public Prosecutor's Office, to which reference was made in paragraph 44, to*

prosecutors, their assistants, and investigators in the capital and elsewhere in the country. A delegation of members of the Special Investigation Unit for Crimes against Trade Unionists and staff from the Public Prosecutor's Office were currently discussing investigation techniques and judicial follow-up with the Colombian Public Prosecutor's Office and the Colombian Directorate of Criminal Investigation and Interpol (DIJIN). He encouraged the Public Prosecutor's Office to continue to organize regular round-table meetings as a means of providing and receiving information on current investigations. On International Human Rights Day in December 2014, some events had been jointly organized with staff of the Public Prosecutor's Office, members of the Special Investigation Unit for Crimes against Trade Unionists and the 22 national civil police officers who had been assigned to investigations into attacks targeting human rights activists. He hoped that the Office could provide assistance with the drawing up of a protocol on the protection of trade unionists and their institutions. In September 2014, a fruitful dialogue had been conducted with representatives of the Executive Body, the Labour Committee of Congress and the social partners on the harmonization of legislation with Convention No. 87, in line with the recommendations of the Committee of Experts on the Application of Conventions and Recommendations. In March 2015, two workshops on international labour standards had been attended by 20 new judges. In February 2015, labour inspectors had been familiarized with those standards. In April 2015, a round of lectures given by international specialists in collective bargaining techniques would be arranged for the executive and legislative branches, judiciary, employers, workers and civil society. The Tripartite Committee on International Labour Affairs had requested technical assistance with the preparation of material for the major awareness-raising campaign on international labour standards. That material would be ready for presentation in the very near future.

- 86.** *A Government representative of Guatemala* (Minister of Labour and Social Security) said, with reference to points 1 and 2 of the roadmap, that thanks to the establishment and strengthening of the Special Investigation Unit for Crimes against Trade Unionists, a total of eight convictions had been handed down in the 58 cases mentioned in paragraph 4 and suspects had been identified in 13 of the 42 cases under investigation, for whom 11 arrest warrants had been issued and a further two had been requested. A report issued by the International Commission against Impunity in Guatemala (CICIG), an independent international entity, had shown that not all victims in the cases in question had been trade unionists; that there had been various motives for the crimes; that closer cooperation of the complainants with the Public Prosecutor's Office would have been necessary in order to substantiate the complaints; that most murders had occurred in hot spots of violence; that there had been problems in the investigations; and that the investigations carried out by the Special Investigation Unit for Crimes against Trade Unionists had shown a higher level of planning and substantiation. Cases which had been investigated and brought to trial had borne out the CICIG's contention that there was no evidence of a state practice of killing trade unionists in Guatemala.
- 87.** On points 3 and 4, he said that the Government had set up special bodies to strengthen preventive, protective and reactive mechanisms to combat threats and attacks on trade union leaders and members. The Ministry of the Interior had assisted with the establishment of two bodies, one of an advisory nature and the other providing technical information about those attacks, in which the trade union sector was represented. After the entry into force of the current Protocol for the Implementation of Immediate and Preventive Security Measures for Human Rights Activists, an additional four trade union leaders and one labour rights defender had been placed under protection. Steps were being taken to ensure that the free 1543 hotline would be functional as soon as possible. The general directive issued by the Public Prosecutor had been adopted on 4 February 2015 and was already being applied within proceedings concerning offences against trade unionists. The Independent Tripartite Commission set up by the Ministry of Labour and Social

Welfare to resolve disputes caused by the exercise of trade union freedom had examined four cases which had been brought before the ILO Committee on Freedom of Association, namely Nos 3040, 3062, 3094 and 2341; more detailed information would be provided as soon as possible.

- 88.** On points 5 and 6, he said that the Ministry of Labour had conducted tripartite consultations on strengthening labour inspection and sanctions procedures, but no consensus had been reached on the proposals. The Labour Commission of Congress had issued a favourable opinion on the draft reforms to the Labour Code on labour inspection submitted by the Government, but it was still possible for tripartite constituents to explore the possibility of arriving at consensus on legislative provisions which would satisfy all sectors. Similarly, on the harmonization of national legislation with Convention No. 87, since the workers and employers had submitted no proposals, in August 2014 the Government had submitted a bill to Congress in the belief that that step would encourage Congress to take action and would oblige employers and workers to submit proposals and participate in the debates of the various congressional working groups. In September 2014, the Chairman of the Labour Committee and the Director of the ILO International Labour Standards Department had agreed on a mechanism to assist Congress to draft laws in line with international labour standards. Since then, the Labour Committee, with the direct support of the representative of the ILO Director-General, had undertaken several studies and had held consultations with both sides of industry.
- 89.** On point 7, he reported that more than 700 rulings in labour disputes had been handed down in 2014. More than 100 had concerned judicial checks on the enforcement of reinstatement orders. The number of penalties imposed on employers had doubled between 2011 and 2014. With regard to point 8, he said that three diploma courses on the interpretation of international labour standards had been run for labour and social welfare magistrates and judges. Since 2013, more than 27 courses had been held to train magistrates, judges and officials of labour courts in the more correct application of labour and social welfare laws. The Office of the Special Representative of the Director-General in Guatemala had assisted in training and capacity building for the Public Prosecutor's Office. Proposed legislative amendments on sanctions to be imposed on judges who did not apply labour laws correctly had undergone a first reading in Congress. Turning to point 9, he said that the awareness-raising campaign had been on the agenda of various meetings of the Tripartite Committee on International Labour Affairs, in which the social partners were involved. An ILO expert had recently consulted with the tripartite constituents about the contents of the campaign, which, it was hoped, would be financed by the Government in due course. Furthermore, over 3,500 employers engaging in activities covered by inspection programmes had attended 26 courses, where freedom of association and collective bargaining had been among the main subjects.
- 90.** His Government would endeavour to ensure that its observations to the Committee on Freedom of Association were submitted in due form, although that would require better capacity on the part of all the institutions involved to compile comprehensive data within a reasonable period of time. Institutional strengthening had, however, resulted in a quadrupling of labour inspections between 2011 and 2014 and in a tenfold increase in the number of workers covered by such inspections. Decent work had been promoted by an almost eightfold increase in the number of jobs offered by the Public Employment Service in the same period. He expressed his gratitude to the ILO for its support, which had made such results possible.
- 91.** *The Worker Vice-Chairperson* said that according to the trade union movement in Guatemala, there had been no progress on the substantive issues in the 2013 roadmap. Seventeen trade union leaders had been murdered in 2013–14, but there had been no arrests in those cases and apart from one conviction handed down in October 2014 for a

murder committed in October 2008, no further arrests had been made regarding the 58 murders of trade unionists previously denounced before the ILO. Given such impunity, freedom of association was impossible. There was no legal and institutional framework to protect individual and collective labour rights. The Protocol on security measures for human rights activists, presented by the Minister of the Interior in August 2014, failed to offer specific protection for trade unionists, and even those granted security were having to cover the expenses of bodyguards themselves. The promised hotline for reporting crimes had not been set up. Moreover, obstacles had been placed on freedom of association and collective bargaining, including on the registration of trade unions. Under the new Bill No. 4703, the power to impose sanctions for labour law violations would lie only with the judiciary, not the inspectorate as recommended by the ILO. The Tripartite Committee for the Settlement of Disputes before the ILO had not solved any cases – a situation which required urgent redress. The time spent by the Human Rights Ombudsman on cases of possible violations of labour rights had been reduced, and the Special Ombudsman for Labour Rights had been dismissed. There had been no capacity building for the social partners in freedom of association, collective bargaining and social dialogue. Furthermore, it was unclear whether the CICIG's mandate would be extended. Lastly, a Presidential decree on minimum wages in four municipalities, which had been imposed without any consultation, had resulted in a cut in the minimum wage of over 50 per cent; however, the Constitutional Court had ordered its provisional suspension in January 2015.

92. He called on the Government of Guatemala to give urgent attention to all of the priority points identified in November 2014 that still required additional and urgent action, before the review by the Officers of the Governing Body. In view of the important role played in the country by the representative of the Director-General, he called on the international community to provide the necessary resources for his work to continue.
93. *The Employer coordinator* noted that, while some progress had been made as stated in paragraph 44, additional and urgent action was still required to implement the roadmap. His group supported the draft decision in paragraph 45.
94. *Speaking on behalf of GRULAC*, a Government representative of Cuba emphasized the importance of fundamental labour rights in achieving decent work and requested the ILO to continue its technical assistance to ensure the full implementation of the roadmap. He called on the tripartite constituents in Guatemala to continue to engage in social dialogue in all sectors to achieve lasting solutions and the full application of Convention No. 87. He endorsed the invitation to the international community to contribute to the operation of the Office of the Special Representative of the Director-General in Guatemala. He supported the draft decision.
95. *Speaking on behalf of Denmark, Finland, Norway and Sweden*, a Government representative of Norway expressed deep concern about the persistent threats against trade unionists and the prevailing impunity for anti-union activity. He called on the Government of Guatemala to respect its commitments to the rule of law and human rights; to implement the roadmap fully at all levels of government; to take urgent action to convict the perpetrators of murder and violence against trade unionists; to implement protective measures for trade unionists; and to align national legislation with ILO Convention No. 87. In view of the important role played by the ILO's Country Office in Guatemala, he urged the Government and the social partners to strengthen their engagement with the ILO. He supported the draft decision.
96. *A Government representative of the Dominican Republic* acknowledged the efforts undertaken by the Government of Guatemala, and the Minister of Labour in particular, to strengthen dialogue and negotiation and to comply with the roadmap. Ministers of Labour of the Central American region had declared their commitment to continuing action to

create decent work. He expressed thanks to the ILO for its technical support to Guatemala and the region, which he hoped would continue.

97. *A Government representative of the United States* expressed deep regret that few tangible changes had occurred in the labour situation in Guatemala. Labour laws were not enforced, nor were violations remedied within the prescribed time frames. The labour inspectorate still lacked the resources needed for its work. Compliance with labour court orders was weak, and employers were not prosecuted for non-compliance. The promised rapid response team to prevent irregular workplace closures had not been set up. Additional and urgent action was still required for the investigation, prosecution and conviction for those responsible for the murders of trade union officials and members and other acts of violence. The negotiation of new collective agreements by the Government had been suspended, and the Government had allowed four municipalities to reduce the minimum wage by almost 50 per cent. He expressed consternation at the fact that the Special Ombudsman for Labour Rights had been dismissed. The United States was of the opinion that it would be appropriate to initiate a commission of inquiry, but could nevertheless support the draft decision. As to subparagraph (e) of the decision, he expressed the highest regard for the work of the Office of the Special Representative of the Director-General, but it was a matter of concern that the Government was not making sufficient use of the support offered to produce measurable results.
98. *A Government representative of Cuba* welcomed the ILO's cooperation with Guatemala. The Government was continuing to respond with renewed commitment to compliance with the roadmap by extending social security coverage, strengthening legislation and collective bargaining, consolidating various sectoral programmes and creating thousands of new jobs. He urged the Office to continue its technical assistance.

## **Decision**

99. *Taking into account the information communicated by the Government and workers' and employers' organizations of Guatemala in relation to all of the points in the roadmap set out in document GB.319/INS/7(&Corr.), and on the recommendation of its Officers, the Governing Body:*
- (a) *requested the Government to take without delay, with the assistance of the Office and in consultation with the social partners, all the measures necessary to fully implement the roadmap, including measures to address the priority areas that continued to require additional and urgent action;*
  - (b) *requested the Office to provide the Officers of the Governing Body, at its 324th Session (June 2015), with updated information on the progress made based on clear indicators and results achieved, including information provided by the Government and employers' and workers' organizations of Guatemala, in particular on the follow-up given to the points of the roadmap;*
  - (c) *included this item on the agenda of its 324th Session (June 2015) in order to decide whether other measures would need to be adopted in relation to this complaint;*
  - (d) *deferred until its 325th Session (November 2015) the decision on the appointment of a commission of inquiry;*

- (e) *invited the international community to facilitate the necessary resources to enable the Office of the Special Representative of the Director-General in Guatemala to continue to support the tripartite constituents in the implementation of the Memorandum of Understanding and the roadmap.*

(Document GB.323/INS/6(Rev.), paragraph 45.)

## Seventh item on the agenda

### **Complaint concerning non-observance by Fiji of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), made by delegates to the 102nd Session (2013) of the International Labour Conference under article 26 of the ILO Constitution (GB.323/INS/7(Rev.1) and (GB.323/INS/7(Add.))**

100. *The Chairperson* said that document GB.323/INS/7(Rev.1) contained in an appendix the text of a Tripartite Agreement which had been signed on that very day between the Fijian Minister of Employment, Productivity and Industrial Relations and social partners in the presence of the Director-General.
101. *A Government representative of Fiji* said that his country was committed to the terms and conditions of the Tripartite Agreement, including the various specific milestones and time frames. He thanked the Director-General, the General Secretary of the Fiji Trades Union Congress (FTUC) and the CEO of the Fiji Commerce and Employers' Federation (FCEF), who had helped to facilitate the Agreement. Fiji was currently experiencing unprecedented growth, employment was on the rise, wages had increased, minimum wage standards had been introduced, employer contributions to superannuation schemes were higher, a draft law had been tabled to increase worker compensation and a number of socio-economic reforms had been introduced, including for free education, water, medicine and electricity and higher welfare payments. The country had also participated in a successful Universal Periodic Review, introduced a new Constitution and held its first democratic elections. He looked forward to working with the Fijian social partners in order to give meaningful implementation to the core ILO Conventions for the betterment of Fiji and the Fijian people, and supported the draft decision.
102. *The Worker spokesperson* said that the reasons presented in the past for establishing a commission of inquiry were clear: the Government had done absolutely nothing of substance to address numerous issues raised by the ILO; it had refused to sign a Memorandum of Understanding and instead issued one which intentionally failed to commit to compliance with the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87); and trade unions had subsequently suffered substantially. The Tripartite Agreement, agreed that morning, demonstrated a remarkable and welcome change in attitude by the Fijian Government. The Government should now prove that the Agreement was not empty words and that the political will to comply with ILO core Conventions existed. The Workers recommended adopting the draft decision.
103. *A Worker member from Fiji* said that much effort had been required from the social partners to reach an agreement that addressed the concerns of all involved and that considerable goodwill and good faith would be needed to realize the goals set. He expressed appreciation for the collective support that had contributed to the Agreement.

The Workers' group in Fiji was fully committed to ensuring that the country would deliver on its commitments and had set firm deadlines for what needed to be done. The intended changes would only be possible with the continued assistance and oversight of the Governing Body.

104. *The Employer coordinator* congratulated the Government, the FCEF and the FTUC for the Tripartite Agreement and supported the draft decision.
105. *An Employer member from Fiji* thanked the ILO for its assistance to Fiji. The country's economy had grown significantly and the focus was now on decent work. The new Agreement augured well for industrial relations in the country and would bring about a situation that was better for all constituents.
106. *Speaking on behalf of ASPAG*, a Government representative of China congratulated Fiji for its facilitation of the visit of the direct contacts mission to Fiji in October 2014, and the tripartite parties of Fiji for the Tripartite Agreement. The Agreement was a result of the goodwill and understanding shown by tripartite parties and would contribute to the ongoing social and economic development of Fiji. As a result of the Agreement, a commission of inquiry was unnecessary and the Governing Body should defer its decision on the matter to the November session.
107. *Speaking on behalf of the EU*, a Government representative of the Netherlands said that the former Yugoslav Republic of Macedonia, Serbia and Albania aligned themselves with her statement. While urging the Fijian Government to respect freedom of expression and assembly, as encapsulated in the requests which the EU had made to Fiji at the previous Governing Body session, she expressed appreciation for the new Tripartite Agreement and looked forward to receiving the joint implementation report at the following Governing Body session. She endorsed the draft decision.
108. *A Government representative of Australia*, speaking also on behalf of New Zealand, said that the new Tripartite Agreement was a positive step forward and a fine example of the role the ILO could play to find constructive solutions through social dialogue. The tripartite parties should continue building a strong foundation for the economic and social development of Fiji through ongoing positive dialogue. Further constructive dialogue was also needed with the ILO to assist the process of aligning Fiji's labour legislation and practice to international labour standards. As a close neighbour and a Pacific partner, Australia offered its support to Fiji, particularly in matters pertaining to labour policy and legislation.
109. *A Government representative of India* praised the Government of Fiji for taking the recommendations of the direct contacts mission in the right spirit and initiating reforms to improve workers' rights. The Memorandum of Understanding prepared by the Fijian Government, the establishment of a committee to review essential national industries and amendments being drafted for the Workmen's Compensation Act, 1978 all seemed positive steps forward. In view of such measures, he urged the Governing Body to defer the decision on the establishment of a commission of inquiry until November 2015.
110. *A Government representative of Thailand*, welcoming the Tripartite Agreement, commended the facilitation of the visit of the ILO direct contacts mission in October 2014 and the progress on the mission's recommendations. Fiji had made positive steps and should therefore be given reasonable time to complete reviews and implement the recommendations. The decision on a commission of inquiry should be deferred until November 2015.

111. *A Government representative of China*, noting the recent social welfare reforms in Fiji and the new Tripartite Agreement, said that the ILO should provide Fiji with the necessary technical assistance and allow it enough time to implement the recommendations of the direct contacts mission. It was therefore unnecessary to establish the commission of inquiry at the current time.
112. *A Government representative of Canada* welcomed the Tripartite Agreement. The parties involved should make full use of the opportunity to ensure respect for freedom of association and protection of the right to organize. He looked forward to the joint implementation report in June, by which time he hoped that tangible progress would have been made. He supported the draft decision.
113. *A Government representative of Cuba* expressed his appreciation for the spirit of cooperation demonstrated by all parties in signing the Agreement and requested the Office to continue offering technical assistance.

### **Decision**

114. *Taking into account the Tripartite Agreement recently signed by the Government of the Republic of Fiji, the Fiji Trades Union Congress (FTUC) and the Fiji Commerce and Employers' Federation (FCEF) (reproduced in Appendix II to document GB.323/INS/7(Rev.1)), on the recommendation of its Officers, the Governing Body:*
- (a) requested the Government and the social partners, in accordance with the Tripartite Agreement, to submit a joint implementation report to its 324th Session (June 2015);*
  - (b) deferred until its 325th Session (November 2015) the decision to consider the establishment of a commission of inquiry.*

(Document GB.323/INS/7(Rev.1), paragraph 3.)

### **Eighth item on the agenda**

#### **Complaint alleging non-observance by Qatar of the Forced Labour Convention, 1930 (No. 29), and the Labour Inspection Convention, 1947 (No. 81), made by the delegates to the 103rd Session (2014) of the International Labour Conference under article 26 of the ILO Constitution (GB.323/INS/8(Rev.1) and GB.323/INS/8(Add.))**

115. *A Government representative of Qatar* said that his Government spared no effort to protect all the rights of all workers, including migrant workers, who were specified in Qatar's Constitution and Labour Code. It attached great importance to meeting its obligations under Conventions Nos 29 and 81 and was committed to cooperation with the ILO and its supervisory mechanisms. Qatar was enacting legislation to protect all workers in the workplace. In February 2015, it had introduced amendments to the Labour Code to protect

wages by obliging employers to pay them by direct transfer to the worker's bank account, and a wage protection unit had been established. Further amendments had granted greater powers to labour inspectors to detect violations and enforce penalties, and the number of labour inspectors had been doubled. The Ministry of Labour and Social Affairs had opened offices in several locations in the country to handle complaints from workers outside the capital and to expedite processing; complaints could also be submitted through workers' complaints bodies and a dedicated hotline. Labour inspectors received continuous training in occupational safety and health at the national level and at the ILO's International Training Centre in Turin. The country collaborated continuously with the ILO and was holding consultations on a technical assistance programme in the areas of labour inspection, occupational safety and health and international labour standards. Proposed amendments to Law No. 4 of 2009 on the entry and exit of migrant workers, their residence and sponsorship were aimed at regulating the employer-worker relationship and the right to leave the country. An automated notification to the Ministry of the Interior would replace the exit permit. Furthermore, an amendment to Ministerial Order No. 18 of 2014 would result in improved standards of accommodation for workers. His Government trusted that the Governing Body would take account of its efforts to address the issues raised in the complaint and would provide Qatar with sufficient time to implement reforms and continue its efforts to make the country a safe place for workers. The protection of workers was of strategic importance to Qatar's development and growth. He expressed the hope that the complaint would be removed from the agenda of the Governing Body.

- 116.** *The Employer coordinator* said that his group recognized the progress made and the commitments given by the Government of Qatar with regard to the issues raised in the complaint. However, those issues were serious and urgent action on them was still required. As a next step, the Governing Body should therefore send a high-level tripartite mission to the country before its session in November 2015.
- 117.** *The Worker Vice-Chairperson* said that the Government of Qatar did not even remotely honour its obligations under Conventions Nos 29 and 81. There was no question that forced labour continued to be a serious and systemic problem in Qatar, and the findings of the ad hoc committee and the Committee of Experts remained valid. Since submitting the complaint, his group had learned of additional serious violations, including an agreement with the Democratic People's Republic of Korea under which workers were not paid for their labour and the money went instead to the regime of that country. The mass deportation of workers who dared to protest against their working conditions sent a strong message to workers not to complain.
- 118.** There was no evidence of any real progress in legislative reform or of enforcement of the existing legislative provisions, including those on combating human trafficking. A reform of the *kafala* system had been announced a long time previously, but workers could apparently still be tied to an employer for five years and the conditions for obtaining a "release permit" were unclear. While it was theoretically possible to change employers in the event of exploitation by petitioning the Government, in practice infrequent use was made of that remedy. The Government must observe the principles set forth in the 2015 report of the Committee of Experts in any reform to the *kafala* system. Furthermore, the draft law to extend certain rights to domestic workers had not been enacted. It was essential that the ILO should contribute to the design of such legislation to ensure compliance with the Domestic Workers Convention, 2011 (No. 189).
- 119.** Confiscation of migrant workers' passports was still a serious problem, but the Government did not provide information on its action to enforce the law or the number of penalties imposed. Recruitment agencies engaged in elaborate and unethical schemes to shift the cost of recruitment to workers; such fees were not merely a problem of migrant workers' country of origin. As to the availability of interpreters, his group had learned that

three had been hired by the National Human Rights Committee, but had never received an employment contract; two had never worked and the third had worked for only three months and had never been paid.

- 120.** Notwithstanding the increase in the number of labour inspectors, there were still too few of them, given the sizeable migrant workforce and the numerous workplaces that plainly still needed proper inspection. Furthermore, it was not clear whether the inspectors had the requisite training and resources for their tasks. There was still only talk of legislation to increase fines and other penalties for violations of labour law, but no action on it.
- 121.** The contents of paragraphs 17 to 25 of the document did not reflect the realities encountered by the vast majority of migrant workers interviewed by the International Trade Union Confederation (ITUC) and human rights NGOs. His group had first-hand information that migrant detainees faced serious abuses and that, in a number of cases, workers (including domestic workers) had been detained for no apparent reason other than that they had fallen out of favour with their employer. Some had even been falsely accused of crimes and had not been provided with due process of the law. However, other than concerns raised by ITUC, the voices of the workers were absent from the Office's mission report. There were, in fact, no trade unions in Qatar, and the lack of freedom of association for migrant workers contributed to the ongoing violations of laws against forced labour and other labour laws. Recent testimonies of workers in Qatar revealed that many were abused every day, lived in squalor, were paid a pittance in the world's richest country, had no access to effective grievance or dispute-settlement procedures and risked injury or death. Despite promises from the Government, little real progress had been made. The Workers' group was seriously concerned by the situation and therefore supported the draft decision and urged the Governing Body to send a high-level tripartite mission to Qatar before its next session. Failing that, his group would have to press for the establishment of a commission of inquiry.
- 122.** *Speaking on behalf of ASPAG*, a Government representative of China noted with satisfaction the numerous measures taken by the Government of Qatar and the progress made towards addressing the issues raised in the complaint. Those steps demonstrated the Government's serious commitment to improving the working conditions of all workers in Qatar. His group welcomed the Government's openness to constructive dialogue and cooperation with the ILO. It encouraged the Government to pursue its cooperation with the Office and requested the latter to provide the Government with the technical assistance it required for the promotion and protection of workers' rights. The Government should be allowed ample time to carry out and implement the reforms it had announced. Neither a high-level tripartite mission nor a commission of inquiry was necessary. He therefore proposed that the draft decision should be reconsidered and the item removed from the Governing Body's agenda.
- 123.** *Speaking on behalf of the EU and its Member States*, a Government representative of the Netherlands said that the former Yugoslav Republic of Macedonia, Montenegro, Serbia, Albania, Republic of Moldova and Georgia aligned themselves with the statement. Compliance with ILO fundamental Conventions was essential for the economic and social stability of any country. An environment conducive to dialogue and trust between employers, workers and governments helped to create a basis for solid and sustainable growth and inclusive societies. He therefore encouraged the Qatari authorities to work closely with the ILO, to step up their efforts to implement Conventions Nos 29 and 87 and to give full support to the high-level tripartite mission. He endorsed the draft decision.
- 124.** *A Government representative of Bahrain* commended the Government of Qatar for its constructive efforts and the measures it had adopted to protect both the national and the immigrant labour force. More time and effort were doubtless required for that purpose. He

was, however, confident that the Government would abide by its obligations under the two Conventions in question. He called on the Governing Body to strengthen its dialogue with the Qatari authorities and to allow them enough time to make progress with their efforts to safeguard the common interests of all workers. He fully supported the statement of the Government of Qatar and, in view of the progress already made, reiterated that the item should be removed from the Governing Body's agenda.

- 125.** *A Government representative of the Russian Federation* expressed serious concern about the systematic violation in Qatar of the rights of over 1.5 million workers, most of whom were migrants. All available information had to be taken into account in order to reach a balanced decision. For that reason, he supported the draft decision.
- 126.** *A Government representative of the United Arab Emirates* noted that the Government of Qatar was continuing its cooperation with the ILO. The measures which had been taken to upgrade legislation, to protect wages and to improve labour inspections and workers' accommodation demonstrated the commitment of the Government of Qatar to comply with the recommendations made by the ILO. The Government should, however, be given more time and assistance to achieve the outcomes outlined in the mission report. A tripartite high-level mission and a commission of inquiry were unnecessary and the item should be removed from the Governing Body's agenda.
- 127.** *A Government representative of the United States* said that the problems outlined in the report were extremely serious. Although the Government of Qatar had initiated a process to address them, the *kafala* system left over a million workers vulnerable to forced labour and passport confiscation. Labour inspectorates were under-resourced and in need of training. He therefore encouraged the Government to enact the proposed law to repeal the *kafala* system in full compliance with Convention No. 29 as soon as possible, and he recommended that it should implement the full programme of work outlined in the proposed Decent Work Country Programme. A high-level tripartite mission should be undertaken before June 2015. He strongly supported the draft decision.
- 128.** *A Government representative of India* noted that the Government of Qatar had undertaken a series of reforms to comply with ILO Conventions Nos 29 and 81. Forced labour was to be condemned in all its forms. He encouraged the Government to complete the reform process without delay to ensure the protection of workers' rights, and called on the ILO to provide technical assistance. The measures taken by the Government should be taken into account before the Governing Body decided on future action.
- 129.** *A Government representative of Algeria* welcomed the spirit of cooperation shown by the Government of Qatar. He took note of the legislative measures that had been taken, which reflected the ILO's recommendations and represented considerable progress in modernizing the country's social legislation. The Government should be encouraged to pursue its reform programme.
- 130.** *A Government representative of China* said that, in view of the progress made by the Government of Qatar in updating its Labour Code to protect migrant workers and, in view of the spirit of cooperation shown by the Government during the ILO mission, a commission of inquiry would not be necessary. He favoured instead continued technical assistance to Qatar from the Office, and he urged the Government of Qatar to continue amending its policies.
- 131.** *A Government representative of the Islamic Republic of Iran* said that the Government of Qatar had shown its willingness to improve working conditions, and should be given time to institutionalize the reforms in progress. He called on the Office to provide the Government with the assistance it needed to meet its commitments.

132. A *Government representative of Sudan* thanked the Government of Qatar for having supplied all the information that it had been asked to supply. The Government of Qatar had taken legislative measures to improve the rights of workers and comply with Conventions Nos 81 and 29, and should be given time to implement the changes. It was taking adequate measures to stem trafficking in persons. It should be encouraged to continue its efforts and to legislate to improve the situation of domestic workers. She was in favour of removing the item from the agenda of the Governing Body.
133. A *Government representative of Turkey* said that it was evident from the information provided by the Government of Qatar and the report of the high-level mission that the Government should continue to work closely with the ILO while drafting the necessary legislation, stepping up enforcement measures and strengthening its labour inspection system. The fact that the Government had begun a dialogue with the ILO illustrated its commitment to overcoming the deficiencies in its labour legislation and in its inspection system. The Government should be given reasonable time to implement its planned reforms before any decision on further action was taken.
134. A *Government representative of Pakistan* said that the Government of Qatar had demonstrated its commitment towards cooperating with the ILO and implementing its recommendations. It should be given time to put its reforms into effect. There was no need at present for another high-level mission to the country.
135. A *Government representative of Brunei Darussalam*, noting the information submitted by the Government of Qatar and the progress that had been made, expressed support for continued cooperation between Qatar and the ILO, and between Qatar and other stakeholders, to address the promotion and protection of workers' rights. Qatar had shown good faith, transparency and willingness to cooperate, and should be given adequate time to attain its goal. A second high-level mission to the country was not necessary at present, and nor was a commission of inquiry.
136. A *Government representative of Indonesia* observed that Qatar was currently updating its labour legislation to protect workers' pay and improve labour inspection. She expressed the hope that the new legislation would soon enter into effect. There was still room for improvement, and she encouraged the Government to focus on the concerns mentioned in paragraph 4 of the document.
137. A *Government representative of the Dominican Republic* acknowledged the efforts being made by Qatar to address the concerns in the original complaint. It should be encouraged to take every possible step to meet ILO standards.
138. A *Government representative of Norway* said that compliance with the eight fundamental ILO Conventions was essential to achieving justice, sustainable development and inclusive growth. He was gravely concerned at the serious allegations against Qatar. The Government of Qatar should take the necessary measures to fulfil its obligation to end the use of forced labour and immediately review the functioning of the sponsorship system, ensure access to justice for migrant workers and ensure that adequate penalties were applied for violations. The new legislation on migrant workers must be enacted speedily, and framed so as to protect workers from any form of exploitation tantamount to forced labour, while providing them with full enjoyment of their rights at work. He urged the Government to remove any restrictions on the freedom of association of migrant workers. In spite of the efforts made to strengthen its capacity, the labour inspectorate was still not inadequately equipped to ensure compliance with labour law. Norway encouraged the Government of Qatar to step up its cooperation with the ILO, including by giving full support to the anticipated high-level mission to the country. He supported the draft

decision, and looked forward to the report of the high-level mission to be presented at the 324th Session (June 2015) of the Governing Body.

139. *A Government representative of Thailand* said that he welcomed the Government of Qatar's efforts to promote and protect the rights of migrant workers and its spirit of cooperation. The Government of Qatar needed more time to implement its planned reforms and it was premature for the Governing Body to decide on any further action.
140. *A Government representative of Jordan* said that he welcomed the renewed commitment of Qatar to carry out the expected reforms. Qatar had fully cooperated with the high-level mission during its visit to the country in February. However, there was certainly room for improvement, and a need to translate words into action.
141. *A Government representative of the Bolivarian Republic of Venezuela* said that it was evident from the report of the high-level mission that the Qatari authorities had received the mission in a spirit of cooperation and open dialogue. He supported the statement by the representative of the Qatari Government, which was committed to improving the situation of migrant workers and fulfilling its obligations under the ILO Conventions.
142. *A Government representative of Mauritania* welcomed the steps already taken by the Government of Qatar to improve the rights of migrant workers and expressed support for the statement by the Government representative of Qatar.
143. *A Government representative of Cuba* appreciated the detailed information provided by the Government of Qatar. He acknowledged the spirit of cooperation that it had demonstrated and the frank and open dialogue that had taken place during the high-level mission. He welcomed the initiatives already taken to improve conditions for migrant workers.
144. *A Government representative of Canada*, noting with appreciation that a high-level mission had already been undertaken to examine the serious allegations against the Government of Qatar, urged the Government to hold accountable individuals and companies found responsible for violating the human rights of migrant workers. He encouraged it to accept another high-level tripartite mission to the country before the item was next considered by the Governing Body, to help ensure that the proposed legislative changes addressed the root causes of the problems. He supported the draft decision.
145. *An Employer member from the United Arab Emirates* said the Government of Qatar had provided the Governing Body with the information it had requested and had taken steps to improve the situation of migrant workers. A decision to send another high-level mission to Qatar at the current time would not be justified.
146. *The Worker spokesperson* expressed regret that a number of Governments had expressed their support for the situation in Qatar. Many of the changes that had been made were cosmetic and insufficient to put an end to the exploitation of migrant workers in Qatar. The Governing Body should be taking urgent action to address the issue, not giving more time to a Government that was resorting to modern forms of slavery. The way in which migrant workers were being treated in Qatar went against the values enshrined in the ILO Constitution and could not be tolerated. If the Qatari authorities were so confident that they were taking measures to address human trafficking and forced labour, they should have no reason to hold back from inviting a tripartite mission to the country to verify the situation.
147. *A Government representative of Qatar* said that the State of Qatar was taking all appropriate measures to uphold human rights and was committed to making progress. Some trade unions had hidden agendas and made allegations for reasons of their own. An objective assessment of his Government's report and the conclusions of the high-level

mission would highlight the positive aspects. He reiterated his Government's willingness to cooperate with the ILO.

148. *The Chairperson* said that the Office had revised the draft decision on the item to take into account the views expressed during the discussion.

### **Decision**

149. *On the basis of discussions which had taken place, the Governing Body decided:*

- (a) *to request the Government of Qatar to submit to the Governing Body for consideration at its 325th Session (November 2015), information on action taken to address all issues raised in the complaint;*
- (b) *to defer further consideration of agenda item GB.323/INS/8 until the 325th Session (November 2015) of the Governing Body, in light of the information referred to in paragraph (a) above.*

(Document GB.323/INS/8(Rev.1), paragraph 7, as redrafted by the Governing Body.)

### **Tribute to Lee Kuan Yew, first Prime Minister of Singapore**

150. Before the discussion of the next item, the Governing Body paid tribute to Lee Kuan Yew, first Prime Minister of Singapore, who had died on 23 March 2015.
151. *A Government representative of Singapore* said that Mr Lee had been a key architect of Singapore's tripartite model, which had been critical to the country's industrial harmony and economic development over the years. He had worked with the Singapore National Trades Union Congress to modernize the trade union movement, and had introduced key initiatives such as the Industrial Relations Act, 1965, the Employment Act, 1968, and the National Wages Council in 1972. He had always had workers' welfare close to his heart and his policies had helped build a fair and inclusive society.
152. *A Worker member from Singapore* said that Mr Lee had been a founding father of an independent Singapore, a dear friend of the labour movement, and the core founder of the People's Action Party. He had never forgotten his trade union roots, and as Singapore's first Prime Minister he had championed a constructive brand of tripartism. Mr Lee had believed strongly in tripartism, and when Singapore had gained independence, 50 years ago, it had also joined the ILO.
153. *The Director-General* said that the international community had lost a global statesman and a great leader in his region, as well as a great supporter of tripartism and of the ILO. The unique tripartite system which he had constructed in Singapore had contributed importantly to its prosperity, and his deep, consistent concern for the situation and interests of working people was what made his passing so poignant for the ILO.

## Ninth item on the agenda

### Reports of the Committee on Freedom of Association

#### 374th Report (GB.323/INS/9)

- 154.** *The Chairperson of the Committee on Freedom of Association* said that the Committee had noted 151 pending cases, of which 32 had been examined on their merit. The Committee had begun its evaluation of its working methods with a view to ensuring effectiveness and impact, through clarity of work and principles. It would continue those discussions and report back to the Governing Body in March 2016, in accordance with the timeline agreed in the joint statement by the Workers' and Employers' groups of February 2015. The Committee had already taken some innovative decisions: for example, to list in paragraph 2 of its report the names of the participants at the meeting of the Committee, following a practice similar to that followed in reports under article 24 of the ILO Constitution. A positive and constructive spirit had again guided the Committee's debates.
- 155.** The Committee had decided to make use of the procedural option of calling a government to come before it to improve the exchange of information, and to highlight the importance of the matters before it in long-outstanding cases – on the current occasion, the Committee had asked the Government of Cambodia to provide detailed information in relation to its recommendations concerning the two cases against it.
- 156.** The Committee had issued urgent appeals to governments that had not yet sent their observations, despite the time that had elapsed since the submission of complaints. The cases concerned were No. 3070 (Benin); No. 3064 (Cambodia); No. 3004 (Chad); No. 3067 (Congo); No. 3753 (Djibouti); No. 2723 (Fiji); Nos 2203, 2869, 2989, 3040 and 3062 (Guatemala); No. 2794 (Kiribati); No. 3018 (Pakistan); and No. 3105 (Togo). Those Governments should transmit their observations as a matter of urgency. The Committee had also examined Cases Nos 2318 and 2655 (Cambodia) and No. 2902 (Pakistan) without having received a response from the Government.
- 157.** The Committee had examined eight cases in which governments had informed it of measures taken to give effect to its recommendations. The Committee had noted with satisfaction the amendment of legislation by the Government of Bosnia and Herzegovina to ensure an easy and efficient registration procedure, which had resulted in the registration of the Confederation of Independent Trade Unions of Bosnia and Herzegovina. The case demonstrated that the Committee's recommendations remained relevant and valid, even when governments took considerable time to implement them. The Committee also noted with satisfaction the reassignment of a dismissed worker in Case No. 2602 (Republic of Korea). The Committee welcomed several steps by the Korean Government to strengthen its labour inspection and legislation aimed at protecting dispatched workers, and encouraged it to pursue its efforts, in consultation with the social partners concerned, to strengthen the protection of subcontracted agency workers' rights to freedom of association and collective bargaining. Finally, in Case No. 2836 (El Salvador), the Committee had noted with satisfaction the reinstatement of a dismissed trade union leader.
- 158.** He drew the Governing Body's attention to two serious and urgent cases. The first was Case No. 2318 (Cambodia), which concerned the murder of three trade union leaders between 2004 and 2007, and more recent threats and acts of violence against workers during a strike. The Committee deeply deplored the absence of information from the

Government in relation to its recommendations, urged it to be more cooperative in the future and, given the number of allegations made, invited it to come before the Committee at its May 2015 session to provide detailed information on the steps taken to investigate the murders and other acts of violence. The Committee firmly expected the Government to make a commitment to ending the prevailing situation of impunity by establishing independent judicial inquiries to fully uncover the underlying facts and identify and punish those responsible, thus preventing the repetition of such acts. The second serious and urgent case was Case No. 2254 (Bolivarian Republic of Venezuela). The Committee had expressed its deep concern at the long-standing allegations, which concerned serious forms of stigmatization and intimidation directed against the Venezuelan Federation of Chambers and Associations of Commerce and Production (FEDECAMARAS), and its member organizations, their leaders and affiliated companies. Noting that the Government had not yet provided a plan of action, as recommended by the Governing Body in March 2014 following the high-level tripartite mission, the Committee had urged the Government to immediately adopt tangible measures to strengthen bipartite and tripartite social dialogue. The Committee had further urged the Government to take immediate action to create a climate of trust based on respect for employers' and workers' organizations, and had requested it, as a first step, to enable a representative of FEDECAMARAS to be appointed to the Higher Labour Council.

- 159.** Lastly, noting with concern new allegations relating to escalations of harassment and intimidation and the detention of some employers and entrepreneurial leaders, the Committee had requested the Government to provide its observations in that connection, and had indicated its intention to examine the new allegations at its next meeting.
- 160.** *An Employer member of the Committee*, highlighting the recommendations in Cases Nos 2318 and 2655 (Cambodia), said that freedom of association was a constitutional principle of the ILO and a fundamental human right, and repeatedly ignoring the Committee's recommendations was utterly unacceptable. He also highlighted the fact, with regard to Case No. 2946 (Colombia), that the Constitutional Court had called upon the legislature to take steps within two years to address the question of the right to strike in the oil sector; it was hoped that the issues could be resolved at the national level. He noted with satisfaction the registration, after many years, of the Confederation of Independent Trade Unions of Bosnia and Herzegovina (Case No. 2225).
- 161.** Thanking the members of the Committee for their spirit of constructive dialogue, he welcomed the new Worker member and wished the Employer member from Mexico a speedy recovery. The Employers attached critical importance to the review of the Committee's working methods and were ready to assist the Chairperson with the report that he was to prepare jointly with his counterpart in the Committee of Experts on the Application of Conventions and Recommendations (CEACR) in support of the standards initiative. As a Governing Body Committee, the Committee on Freedom of Association welcomed the Governing Body's feedback on its work. Indeed, the legislative aspects of two definitive cases had been transmitted to the CEACR (paragraph 12). There had been rich discussion during the review of the Committee's working methods on the admissibility criteria for complaints, geographical equilibrium – as the majority of complaints came from Latin America – and the organization of the Committee's agenda. There was much to consider before the next meeting; in particular, more certainty was required concerning the scope of the principles of freedom of association. More information from the Office about how it processed the wide variety of complaints it received would be appreciated. The working methods review should help the Committee to be more effective and transparent, while ensuring that it continued to fulfil its mandate by promoting respect for trade union rights.

- 162.** Time-management problems resulting from the number of cases on the agenda needed to be addressed. It was vital that the Committee had sufficient time to properly discuss all alleged breaches of the principles of freedom of association and collective bargaining, given the importance of the guidance which it was mandated to give to governments. Furthermore, different approaches to the wide variety of cases that the Committee considered warranted consideration. While the opportunity to review the Office's papers prior to Committee sessions was welcome, there were practical difficulties involved, such as the fact that Committee members did not arrive in Geneva until the day before the Committee met. However, the Committee's latest session had benefited from further information from the Office as a result of the new principles which had been developed together. The Office should use track changes during the amendment process; that would save considerable time and free Committee members to attend other meetings. In addition, it was necessary to reflect on whether the Committee's work would benefit from secretariat support.
- 163.** Lastly, it was crucial that Governments should consider Case No. 2254 (Bolivarian Republic of Venezuela), which was a serious and urgent case. Freedom of association applied equally to private sector employers' organizations, and was not an exclusive right of trade unions.
- 164.** *A Worker member of the Committee* recalled that behind the Committee's conclusions and recommendations lay the reality of women and men who were victims of anti-union discrimination – women and men who may have been attacked, jailed, or even injured or murdered. Those individuals had suffered such serious violations solely for trying to exercise their right to freedom of association, or their right to bargain over wages and working conditions by acting collectively, including when they had no choice but to go on strike. The report's purpose was to do justice to those women and men, and restore the effective exercise of freedom of association and collective bargaining. Human rights at work were at stake, and specifically freedom of association, which was essential for effective social dialogue and collective bargaining – as was tripartism, a founding ILO principle.
- 165.** The review of the Committee's working methods was necessary in order to strengthen the effectiveness of the implementation of its conclusions and recommendations. The evolution of the Committee's procedures must remain based on the general principle of legal certainty in its recommendations, which in turn required the universality, stability and clarity of the principles on which it relied.
- 166.** The Workers' group was deeply concerned by Case No. 2318 (Cambodia), which contained allegations ranging from brutal acts of violence, including the murder of three trade union leaders, to the ongoing repression of trade unionists. Despite numerous requests over nearly ten years, the Government had again failed to respond to the allegations. The same was true with regard to Case No. 2655 (Cambodia), and the Government had thus been asked to come before the Committee at its May 2015 session. Of continuing concern was the failure, in many instances, to secure the reinstatement of workers dismissed due to anti-union discrimination – such as in Cases Nos 3030 (Mali) and 3069 (Peru). When workers were dismissed for legitimate union activities, they, and their families, were penalized immediately by the loss of employment and income. Case No. 2620 (Republic of Korea) had been dealt with as far back as March 2009: workers who were in the country illegally and who tried to establish trade unions were arrested and deported when elected as union leaders. The Seoul High Court's decision in favour of the Migrants' Trade Union's registration was still pending after more than eight years. The recommendation in paragraph 305 of the report was, therefore, welcome, and the Government should be aware that the Office may be able to provide technical assistance. The rights of migrant workers were a concern more generally; firm recognition by the

Committee of migrants' basic human right to freedom of association should constitute the basis for the ongoing discussions between sending and receiving governments on that matter. The Workers' group expected Employers and Governments to assist in establishing measures to protect migrant workers from exploitation.

- 167.** A number of cases concerned a refusal by employers (public or private) to bargain collectively, or collective bargaining not being conducted in good faith, both of which undermined the provisions and principles contained in the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98). The allegations in Cases Nos 2941 and 3026 (Peru) both referred to legal restrictions and, in practice, impediments to collective bargaining on public sector wages. The recommendations in paragraph 672, which underlined the Government's obligation to bring its legislation into conformity with Conventions which it had ratified, were especially important. Case No. 2946 (Colombia) concerned anti-union discrimination, mass dismissals and pressure and persecution aimed at making trade unionists give up their membership; specifically, there were violations against the exercise of freedom of association in the oil sector. Governments must not define "essential services" with a view to denying the right to strike, and must respect the criteria set by the Committee. Special attention should be given to the recommendation in paragraph 257(g) – it was not the first time that the Committee had expressed the view that the employment of workers through repeated renewals of fixed-term contracts for several years could hinder the exercise of trade union rights in certain circumstances. On Case No. 2882 (Bahrain), concerning grave allegations of, inter alia, widespread arrest, torture and dismissals, no information had been provided by the Government on the outcome of the appeals brought by trade unionists. The relevant recommendation recalled the Government's commitment, in the tripartite agreement, to work to ratify Conventions Nos 87 and 98. The case highlighted the fact that governments could always request ILO technical assistance. Again, the Committee had needed to remind governments that it was for independent bodies to determine the legality of strikes; in that regard, the Workers' group noted Cases Nos 3029 (Plurinational State of Bolivia), 3032 (Honduras) and 3084 (Turkey).
- 168.** Positive developments, such as those in Case No. 3073 (Lithuania) on the rights of police in relation to Conventions Nos 87 and 98 and the Collective Bargaining Convention, 1981 (No. 154), were welcome.
- 169.** The Government of Pakistan had failed to respond to allegations on several occasions (Case No. 2902), despite being a member of the Governing Body, and an urgent appeal made in November 2014. Case No. 3050 (Indonesia) involved allegations of attacks by paramilitary organizations, injuring workers who were taking part in a peaceful strike to demand, inter alia, the increase of minimum wages and to protest against outsourcing, particularly in state-owned enterprises.
- 170.** *Speaking on behalf of the Government group of the Committee*, which consisted of members appointed by the Governments of Argentina, Dominican Republic, Japan, Kenya, Romania and Spain, the Government member from Spain reiterated the willingness of the Government members to continue to actively participate in the work of the Committee, through dialogue with the members from the Employers' and Workers' groups, to facilitate the consensus necessary for the Committee to fulfil its mandate.
- 171.** *A Government representative of Cambodia* said that, although financial constraints made it difficult for her Government to meet the Committee's demands, her Government had just sent an updated report to the Committee on progress in Case No. 2318. Cambodia was committed to working and cooperating closely with the Office, the social partners and other relevant stakeholders in order to promote decent jobs and comply with the

international labour standards set out in the Conventions to which it was a party. The authorities of Cambodia were prepared to meet the Committee in May 2015.

172. *Speaking on behalf of GRULAC*, a Government representative of Cuba noted with satisfaction that a list of the members that had participated in the meeting had been included in the report. Reiterating the commitment of the countries in his region to respecting the right to freedom of association and collective bargaining, he once again drew the Governing Body's attention to the imbalances in the number of cases examined by the Committee: 96 of the 151 cases brought before the Committee and 17 of the 32 cases examined on their merits – in other words 63 per cent of cases addressed by the Committee – were from countries in Latin America and the Caribbean. The Committee's report on the review and clarification of its mandate, which was to be presented in March 2016, would offer a prime opportunity to take account of his group's various statements concerning the need for improvements in the way the Committee functioned, for clear criteria in order to promote greater objectivity and for compliance with procedural rules. His group agreed that promoting national mechanisms for the settlement of cases would facilitate domestic solutions. His group would be willing to share its experiences and good practices in the area of freedom of association and the settlement of cases.

## Decision

173. *The Governing Body took note of the introduction to the report of the Committee, contained in paragraphs 1–69, and adopted the recommendations made in paragraphs: 89 (Case No. 2882: Bahrain); 112 (Case No. 3029: Plurinational State of Bolivia); 128 (Case No. 2318: Cambodia); 141 (Case No. 2655: Cambodia); 183 (Case No. 3015: Canada); 219 (Case No. 3057: Canada); 257 (Case No. 2946: Colombia); 268 (Case No. 2960: Colombia); 285 (Case No. 3034: Colombia); 305 (Case No. 2620: Republic of Korea); 336 (Case No. 3044: Croatia); 358 (Case No. 3058: Djibouti); 371 (Case No. 2811: Guatemala); 423 (Case No. 3032: Honduras); 435 (Case No. 3077: Honduras); 478 (Case No. 3050: Indonesia); 504 (Case No. 3073: Lithuania); 543 (Case No. 3030: Mali); 561 (Case No. 3024: Morocco); 586 (Case No. 3052: Mauritius); 598 (Case No. 2902: Pakistan); 626 (Case No. 2937: Paraguay); 672 (Cases Nos 2941 and 3026: Peru); 694 (Case No. 2996: Peru); 723 (Case No. 2998: Peru); 769 (Case No. 3009: Peru); 801 (Case No. 3043: Peru); 832 (Case No. 3056: Peru); 854 (Case No. 3069: Peru); 873 (Case No. 3084: Turkey); 930 (Case No. 2254: Bolivarian Republic of Venezuela), and adopted the 374th Report of its Committee on Freedom of Association as a whole.*

(GB.323/INS/9.)

## Tenth item on the agenda

### Report of the Working Party on the Functioning of the Governing Body and the International Labour Conference (GB.323/INS/10)

174. *The Employer coordinator* recalled that group meetings were planned on the Sunday before the start of the Conference, which would affect the per diem and accommodation costs.

175. *Speaking on behalf of the Africa group*, a Government representative of Zimbabwe welcomed the report as a true reflection of the deliberations of the Working Party, and supported the draft decisions.
176. *Speaking on behalf of IMEC*, a Government representative of Norway said that strong commitment from all parties and the Office was needed for the trial of the two-week Conference to be successful. Regarding the Governing Body, she was confident that the changes would enable the ILO's work to be conducted effectively. The current two-week Governing Body session, which had included in-depth discussions on the programme and budget had remained on, or even ahead of, schedule, which demonstrated the value of thorough preparation and advance consultations. However, the purpose of the High-Level Section was still unclear; any decision by the Screening Group to place it on the agenda must be driven by genuine need. IMEC would submit written amendments to paragraphs 4 and 12 of the report. It supported the draft decisions.

## **Decisions**

### **177. The Governing Body:**

- (a) *decided to propose to the Conference that it implement, on a trial basis, the proposed arrangements for a two-week session of the International Labour Conference in June 2015, as set out in document GB.323/WP/GBC/1(Rev.1);*
- (b) *requested the Office to prepare for the 325th Session (November 2015) of the Governing Body an analysis of the trialled format of a two-week session in June 2015, which would allow the Governing Body to draw the lessons of this experience and take the appropriate decisions as regards the format arrangements for the future sessions of the International Labour Conference.*

(GB.323/INS/10, paragraph 9.)

### **178. The Governing Body:**

- (a) *decided that the words “technical cooperation” should be replaced with “development cooperation” where it was appropriate and that the title of the Technical Cooperation Segment should be readjusted accordingly;*
- (b) *requested the Office to improve the current format of the Supplementary Report of the Director-General describing the follow-up action taken by the Office as a result of previous decisions through the implementation of the improvements proposed in paragraph 8 of document GB.323/WP/GBC/2 as well as by any additional improvement which could serve the objective of the relevant report;*
- (c) *requested the Office to review the text of its Standing Orders, including the Introductory Note, and to propose amendments, including those needed to implement the agreed changes, to its 326th Session (March 2016).*

(GB.323/INS/10, paragraph 17.)

## Eleventh item on the agenda

### Report of the Director-General

(GB.323/INS/11 and GB.323/INS/11(Add.))

#### *Decision*

**179.** *The Governing Body took note of the information presented in the report.*

(GB.323/INS/11 and GB.323/INS/11(Add.))

### First Supplementary Report: Monitoring and assessment of the progress towards decent work at the national level

(GB.323/INS/11/1)

**180.** *The Worker Vice-Chairperson* said that the monitoring and assessing of progress towards decent work at the country level through the use of indicators was a pressing priority for his group, since it was the only means of objectively assessing the real value of the laws and policies which were being implemented. That was why his group had supported the Monitoring and Assessing Progress on Decent Work (MAP) project and the work on decent work country profiles. They had confirmed the feasibility and usefulness of the indicators; helped to ensure evidence-based policy-making and development planning; guaranteed the legitimacy of the data through the involvement of tripartite social dialogue; and allowed countries to add their own indicators. Decent work indicators were necessary in order to measure progress towards decent work for all. The ILO Department of Statistics should enhance its work together with the technical departments on indicators covering the Decent Work Agenda in view of the anticipated adoption of the UN post-2015 sustainable development goals, because targets under each goal had to be accompanied by indicators in the form of measurable outcomes. Governments and the Office had to ensure that in intergovernmental negotiations in New York and in the UN Statistical Commission's discussions, the indicators adopted on the decent work goal covered all four pillars of the Decent Work Agenda and were not reduced to a handful of employment and social protection indicators. The Office should also establish the necessary operational mechanisms to provide assistance to constituents on the decent work indicators and should continue to work on the production of those indicators. After the UN General Assembly in September, the Office should present updated information to the November session of the Governing Body.

**181.** *The Employer coordinator* said that his group was in favour of improving labour market statistics by making existing data more robust and by gathering new data in order to gain a fuller understanding of national contexts. An integrated ILO database would be valuable, since capacity building must be based on reliable, timely labour force surveys from a greater number of countries. Since many countries found it challenging to collect data on employment and to allocate resources, the Office should provide assistance. Data that respected international definitions was crucial to evidence-based policy development. However, governments would clearly not collect all the data featured in the ILO manual if they saw no need for it. The Employers supported the activities proposed in paragraph 9 and the approach set out in paragraph 8. Decent work was a relative concept, a goal to be achieved within the capacity and development goals of each country. It could not therefore be a quantifiable, objective, universal standard. The ILO should focus on fact-based statistics that helped countries to improve in areas which national constituents identified as

priorities for economic development and job creation. His group supported the draft decision, as amended by the EU.

- 182.** *Speaking on behalf of the EU and its Member States*, a Government representative of the Netherlands said that Turkey, the former Yugoslav Republic of Macedonia, Montenegro, Serbia, Albania, Bosnia and Herzegovina, Norway, Republic of Moldova, Armenia and Georgia aligned themselves with the statement. The MAP project was an excellent example of cooperation between the ILO and the EU and had improved the capacities and understanding of national constituents with regard to decent work and its measurement. The EU agreed with the lessons and recommendations and welcomed the importance attached to social dialogue and the acknowledgment of the need to focus more on countries' specific economic and social contexts and requirements. It was therefore necessary to continue to provide partner governments with technical assistance in preparing national assessments, improving statistical capacities and designing policy responses. An efficient approach to the review and monitoring of the post-2015 sustainable development agenda at national, regional and global level would be crucial to assessing progress towards the achievements of goals and targets. To that end, it was important to have robust, measurable indicators as well as high-quality data. National ownership and leadership were also of key importance for the effective implementation of the agenda at country level. The Office could play a key role in the context of the new agenda, on account of its specific expertise in developing guidelines, methodologies and criteria for assessing progress towards decent work.
- 183.** To encompass the various data and the participative methodologies which should be used in measuring progress towards decent work and to reflect the exact nature of the post-2015 agenda, she proposed that the draft decision should be amended to read: "The Governing Body requests the Director-General to take account of its guidance in enhancing support to constituent capacities to improve tools and methodologies, including statistical data, to monitor and assess progress towards decent work and towards goals and targets of the envisaged post-2015 development agenda."
- 184.** *Speaking on behalf of the Africa group*, a Government representative of Kenya welcomed the progress made in the development of a framework for the measurement of decent work and the development of selected country profiles. The engagement of national tripartite constituents and national statistics offices was crucial; however, other key agencies with cross-cutting mandates might also need to be included. The Africa group supported the areas identified for further improvements, but noted that there was no budgetary provision for decent work indicators. He called for a firm commitment by the member States and constituents to ensure that sufficient resources were included in the budget for the next biennia. More resources should also be allocated for the recommendations made at the 19th Session of the International Conference of Labour Statisticians in October 2013 regarding strengthening of departmental statistics and regional-based capacities. The Turin Centre could provide support in training. He supported the draft decision.
- 185.** *A Government representative of Pakistan* said that decent work country profiles were important, as they offered countries – including Pakistan – a baseline assessment of recent progress and could be used as input for national priorities and policy-making across all social and economic areas. In the absence of specific budgetary provisions for decent work indicators, the ILO should use its large donor network to obtain the necessary financial resources. The Programme and Budget for 2016–17 should contain such specific budgetary provisions. He supported the draft decision.
- 186.** *A representative of the Director-General* (Director, Department of Statistics) said that at the current stage of negotiations on the post-2015 development agenda, the outcomes of the MAP project and the advanced methods used in the decent work country profiles meant

that the Office would be better equipped to negotiate in order to provide concrete indicators and proposals based on tripartite input. He thanked the EU for the help it had provided the Office in the project, which had had a spillover effect in other member States. He clarified that the UN Statistical Commission and UN General Assembly had stated that the final list of indicators would be approved by the session of the UN Statistical Commission in March 2016 after an intergovernmental process. The ILO would be actively involved and governments would have to facilitate the interchange of information between ministries and national statistical offices. The Office would endeavour to present a set of indicators for March 2016. The Department of Statistics had received support in the next programme and budget and would be better equipped to assist countries and regions.

### **Decision**

- 187. *The Governing Body requested the Director-General to take account of its guidance in enhancing support to constituent capacities to improve tools and methodologies, including statistical data to monitor and assess progress towards decent work and towards goals and targets of the envisaged post-2015 development agenda.***

(Document GB.323/INS/11/1, paragraph 15, as amended.)

## **Second Supplementary Report: Developments in the relationship between the ILO and the International Organization for Standardization (ISO), including in the field of occupational safety and health (GB.323/INS/11/2 and GB.323/INS/11/2(Add.))**

- 188. *The Worker Vice-Chairperson*** said that three elements were particularly important in assessing the pilot implementation of the ILO–ISO agreement in ISO Project Committee 283: consistency of ISO standards with international labour standards; the effective presence of the ILO in the relevant ISO committee or body; and safeguarding the ILO’s leadership in global labour policy and activities, including occupational safety and health (OSH) standards. He expressed deep concern that a resolution which conflicted with core international labour standards on workers’ representation in an OSH management system had been circulated and voted on without consultation with the ILO and despite its opposition. The adopted resolution contained a definition of workers’ representatives that ran counter to the Workers’ Representatives Convention, 1971 (No. 135). He agreed that, if unchanged, the resolution would undermine the vital role of worker participation in the range of relevant issues that could arise under OSH management systems. He was even more concerned at the updated information in the appendix, that the ISO was of the view that the agreement did not require its standards to defer exclusively to international labour standards in case of conflict. The agreement clearly stated that international labour standards had to be the source of reference, meaning ISO standards must defer exclusively to international labour standards in case of conflict. Prior to the upcoming meeting of ISO Project Committee 283 in July 2015, the Director-General should seek to resolve the dispute with the ISO through high-level contacts. The ILO should engage in the meeting with the objective of ensuring that the draft of ISO standard 45001 included references to workers’ representatives in line with Convention No. 135 and of ensuring consistency with ILO standards on other issues. He requested the Office to keep the Officers of the Governing Body and the regional coordinators informed of the outcome of that meeting. In

light of the seriousness of the issues, any developments should be included on the agenda of the Governing Body session in November 2015. If the ISO draft did not comply with ILO standards after the meeting in July, the Governing Body would have to decide at its session in November 2015 on a course of action. In such a case, the ILO should consider informing ISO voters of the inconsistency and recommending that they should vote against the ISO standard. He expected the flagship programme on OSH to result in greater visibility of ILO standards on the subject. He proposed amending the draft decision to reflect the points he had made.

- 189.** *The Employer coordinator* said that the voluntary standard was intended to be complementary to national and international law with which companies had to comply in the first place. The International Organisation of Employers would continue to represent itself and contribute to the ISO process. The Office did not represent all constituents; its role was to provide guidance on ILO issues and to promote international labour standards, not to impose its views. The ISO was not disrespecting the agreement by not referring to the exact wording proposed by the ILO. It was not very clear from the document where the problem lay exactly. National experts were also trying to influence the ISO process to ensure that their country's standards were reflected, meaning that differing opinions were driving the process. The standard would be accredited in many countries and therefore all rules of the International Accreditation Forum would apply to its interpretation and processing. The issue would not damage ILO Conventions, which would have to be respected and implemented by member States regardless. The Employers could go along with the Workers' suggested amendments.
- 190.** *Speaking on behalf of the Africa group*, a Government representative of Sudan invited the ISO to continue to make efforts to integrate the relevant international labour standards in its decision-making process. Close cooperation was required between the ILO and ISO to agree on a joint definition of terms relevant to both organizations. He expressed concern that the decision taken by ISO Project Committee 283 regarding worker representation in OSH management systems was incompatible with international labour standards, especially the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98). The ISO Technical Management Board should examine the possibility of maintaining contact with the ILO to make greater progress in the area. He requested the Office to organize a follow-up meeting with the Technical Management Board. In view of the importance of prioritizing international labour standards, he supported the draft decision.
- 191.** *Speaking on behalf of GRULAC*, a Government representative of Cuba noted with concern the challenges detailed in paragraph 9 of the document. The ILO must maintain its position in the ISO 45001 process and keep the Governing Body informed. Collaboration with the ISO had historically been positive, which made the current situation particularly concerning. The group supported the draft decision, as amended by the Workers' group.
- 192.** *Speaking on behalf of IMEC*, a Government representative of Norway welcomed the fact that significant efforts by the ILO had resulted in closer adherence of ISO standards to international labour standards, but expressed alarm at the continuing challenges reported and the fact that the ILO-ISO agreement was not being observed. The Governing Body had authorized the agreement on condition that ISO standards would comply with international labour standards. Progress was still needed to ensure that ISO Project Committee 283 gave priority to such standards in the event of a conflict and ensured the ILO's effective participation in ISO working methods. The extension of the pilot for one year was worthwhile and any decision on expanding the programme on OSH management systems should take account of the outcome. The Governing Body should review the matter further and consider any related financial questions that could not be handled within

the existing regular budget. Welcoming the recent contact between leadership of the ILO and ISO, she called for the ILO to continue to press for a mutual understanding with the ISO leadership. She encouraged Governing Body members to inform their national ISO representatives that they expected compliance with the agreement. The group supported the draft decision, in both its original and amended forms.

- 193.** *A Government representative of Japan* cautioned that if the ILO terminated its collaboration at that point, the ISO would develop new standards that would not be in line with ILO standards, which would then prevail in enterprises worldwide. The ILO should therefore participate actively in technical committees and informal communications and collaboration with the ISO for a further year. The Office should develop a clear strategy on reflecting international labour standards in new ISO standards on OSH management systems.
- 194.** *A Government representative of India* expressed disappointment at the slow progress and continuing problems in collaboration with the ISO. The recent developments showed that the ILO had a very limited role in drafting some sections of ISO 45001. The pilot implementation of the agreement, in her opinion, diluted the core mandate of the ILO, which had the global mandate on OSH standards. The ISO was a private organization issuing voluntary standards, which must not be allowed to take the place of binding ILO instruments. She did not support the extension of the pilot, and requested additional details on why the agreement should be continued. The Governing Body should continue discussing the item and set a firm timeline for a decision on extending the pilot. She supported the draft decision, as amended.
- 195.** *Speaking on behalf of Argentina and Brazil*, a Government representative of Brazil supported the Workers' amendment to the draft decision.
- 196.** *A Government representative of China* firmly believed that the implementation of the agreement should aim at achieving the objectives in paragraph 4 of the document, and appreciated the ILO's efforts to address the challenges in the collaboration. He expressed concern that the ISO apparently did not accept the responsibilities under the agreement to defer to international labour standards. Discontinuing the ILO–ISO collaboration might make the situation worse, as the ILO's authority on labour matters and international labour standards would not be taken into account. He urged the ILO to find a solution to the dispute on ISO 45001. He also encouraged member States to liaise with their ISO representatives at the national level to obtain consistency of ISO standards with international labour standards. He supported the draft decision.
- 197.** *A representative of the Director-General* (Senior Counsellor to the Deputy Director-General for Policy (DDG/P)) said that the Office operated in a very disciplined manner within the ISO committee – operating under the mandate of the Governing Body, which had authorized the agreement and the pilot work – and provided comments on elements related to international labour standards relevant to the drafting. The primary goal was to avoid conflict – either expressed or implied – that could undermine the ILO tripartite standards; the Office was not proposing to incorporate the exact wording of international labour standards into voluntary ISO standards. In relation to the ILO's constituents, the Office liaised with labour ministries at the national level in countries represented by the ISO members within ISO Project Committee 283, as well as with the international employers' and workers' secretariats. The goal was to encourage in-country dialogue between ILO constituents and national ISO bodies and within the ISO's mirror committees used to obtain public opinion on the drafting of an ISO standard. She valued efforts taken by ILO constituents at the national level to explain to ISO representatives why a voluntary standard should be complementary to, and not replace or conflict with, national or international law.

198. *The Worker Vice-Chairperson emphasized that it was the responsibility of each government to promote and defend ILO Conventions in discussions about ISO standards, including at the national level.*

### **Decision**

199. *Noting the progress but expressing concern at continuing challenges of recent collaboration with the International Organization for Standardization (ISO), the Governing Body:*

- (a) *requested the Director-General to seek to urgently resolve with the ISO, through high-level contacts, the disputed interpretation over certain elements of the Agreement;*

*Further decided:*

- (b) *to extend the pilot implementation of the ILO–ISO agreement of 2013, for the time necessary for the ILO’s effective participation in the development of ISO 45001 and up to one year;*
- (c) *to review the implementation of the ILO–ISO agreement at its 325th Session (November 2015).*

(GB.323/INS/11/2, paragraph 19, as amended.)

### **Third Supplementary Report: Documents submitted for information only (GB.323/INS/11/3(Rev.))**

### **Decision**

200. *The Governing Body took note of the information contained in the documents listed in the appendix to document GB.323/INS/11/3(Rev.).*

(GB.323/INS/11/3(Rev.), paragraph 3.)

### **Fourth Supplementary Report: Appointment of an Assistant Director-General (GB.323/INS/11/4)**

### **Decision**

201. *The Governing Body noted that the Director-General, after having duly consulted the Officers of the Governing Body, had appointed Ms Tomoko Nishimoto as Regional Director of the ILO Regional Office for Asia and the Pacific at the Assistant Director-General level. Ms Nishimoto made and signed the prescribed declaration of loyalty as provided under article 1.4(b) of the ILO Staff Regulations.*

(GB.323/INS/11/4, paragraph 4.)

**Fifth Supplementary Report: Report of the Committee set up to examine the representation alleging non-observance by Chile of the Old-Age Insurance (Industry, etc.) Convention, 1933 (No. 35), and the Invalidity Insurance (Industry, etc.) Convention, 1933 (No. 37), made by the College of Teachers of Chile AG, under article 24 of the ILO Constitution**  
(GB.323/INS/11/5)

**Decision**

**202. The Governing Body:**

- (a) *approved the report contained in document GB.323/INS/11/5, and specifically the conclusions set out in paragraphs 72–75 concerning the application by Chile of Conventions Nos 35 and 37;*
- (b) *noted the will of the Ministry of Education to develop the teachers' wage and welfare conditions through social dialogue and to find a durable solution to the pension issues raised in the representation by establishing, together with the College of Teachers of Chile, a Technical Board, which is expected to submit concrete proposals to that end and to deliver its final report at the end of the first semester of 2015;*
- (c) *encouraged all parties concerned to reach a viable agreement in the very near future and request the Office to provide the parties to the representation with any technical, consultative or conciliatory services and good offices, which they may request;*
- (d) *requested the Government of Chile to take the measures necessary for acquiring and preserving pension rights of the municipal teachers in conditions of legal certainty, uniform implementation and enforcement required for the proper functioning of the pension scheme based on capital accumulation accounts, in particular:*
  - (i) *to accept the responsibility, in compliance with Article 10(5) of Convention No. 35 and Article 11(5) of Convention No. 37, for the administrative and financial supervision of the collection and payment of pension insurance contributions by the municipalities and municipal bodies employing the teachers, establish effective mechanisms for recuperation of arrears of unpaid contributions and, where necessary for this purpose, provide appropriate contributions by the public authorities to the financial resources of the municipalities or to the pension benefits of the teachers, in compliance with Article 9(4) of Convention No. 35 and Article 10(4) of Convention No. 37;*
  - (ii) *to ensure participation of the representatives of the teachers and other categories of insured persons in the management of their pension*

*schemes, including collection of insurance contributions and supervision of their effective payment into respective schemes by the municipalities and other employers in respect of their employees, in compliance with Article 10(4) of Convention No. 35 and Article 11(4) of Convention No. 37, and to engage the process of dialogue with the representatives of the teachers for this purpose;*

- (iii) to improve the effectiveness of dispute resolution and appeal mechanisms in pension matters concerning municipal employees, ensure prompt rendition of justice in these cases and execution of court decisions engaging the liability of the municipalities for unpaid contributions, in line with Article 11 of Convention No. 35 and Article 12 of Convention No. 37;*
- (e) invited the Government to send reports under article 22 of the ILO Constitution on the application of Conventions Nos 35 and 37 by 1 September 2015 containing detailed information on the measures taken to give effect to the conclusions and recommendations made in points (a), (b) and (c) above, as well as on the solutions advanced through social dialogue within the work of the joint technical board established by the Ministry of Education and the College of Teachers of Chile, to be examined by the Committee of Experts on the Application of Conventions and Recommendations in relation with the follow-up on the recommendations adopted by the Governing Body in 1999 and 2006 on the previous representations submitted by the College of Teachers of Chile on similar issues;*
- (f) decided to make this report publicly available and declared closed the procedure initiated before the Governing Body as a result of the representation made by the CPC AG concerning the application by Chile of the Old-Age Insurance (Industry, etc.) Convention, 1933 (No. 35), and the Invalidity Insurance (Industry, etc.) Convention, 1933 (No. 37).*

(Document GB.323/INS/11/5, paragraph 76.)

**Sixth Supplementary Report: Report of the Committee set up to examine the representation alleging non-observance by the Republic of Moldova of the Labour Inspection Convention, 1947 (No. 81), submitted under article 24 of the ILO Constitution by the National Confederation of Trade Unions of Moldova (CNSM) (GB.323/INS/11/6)**

**Decision**

**203. The Governing Body:**

- (a) approved the report contained in document GB.323/INS/11/6;*
- (b) invited the Government, in light of the conclusions set out in paragraphs 47, 55, 61, 64 and 71 of document GB.323/INS/11/6, to take such measures without delay as might be necessary to ensure the effective implementation of Articles 12 and 16 of the Labour Inspection Convention, 1947 (No. 81);*
- (c) invited the Government to consider availing itself of ILO technical assistance, particularly with regard to the further elaboration of amendments to Law No. 131 of 2012 on state control of entrepreneurship activities;*
- (d) entrusted the Committee of Experts on the Application of Conventions and Recommendations with following up on the issues raised in the report in respect of the application of Articles 12 and 16 of Convention No. 81;*
- (e) made the report publicly available and closed the procedure initiated by the representation made by the National Confederation of Trade Unions of Moldova (CNSM) alleging the non-observance by the Republic of Moldova of Convention No. 81.*

(Document GB.323/INS/11/6, paragraph 72.)

## Twelfth Item on the agenda

### Reports of the Officers of the Governing Body

**First report: Representation alleging non-observance by the Government of Peru of the Indigenous and Tribal Peoples Convention, 1989 (No. 169), made under article 24 of the ILO Constitution by the International Trade Union Confederation (ITUC), the Trade Union Confederation of the Americas (TUCA) and the Autonomous Workers' Confederation of Peru (CATP)**  
(GB.323/INS/12/1)

#### *Decision*

*204. In the light of the information presented in the report, and on the recommendation of its Officers, the Governing Body decided that the representation was receivable and set up a tripartite committee to examine it.*

(Document GB.323/INS/12/1, paragraph 5.)

**Second report: Representation alleging non-observance by Peru of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), made under article 24 of the ILO Constitution by the Autonomous Confederation of Peruvian Workers (CATP) and the United National Union of Workers of the National Tax Administration Supervisory Authority (SINAUT–SUNAT)**  
(GB.323/INS/12/2)

#### *Decision*

*205. In light of the information presented in the report, and on the recommendation of its Officers, the Governing Body decided that the representation was receivable and set up a tripartite committee to examine it.*

(Document GB.323/INS/12/2, paragraph 5.)

**Third report: Representation alleging non-observance by Colombia of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), and the Collective Bargaining Convention, 1981 (No. 154), made under article 24 of the ILO Constitution by the General Confederation of Workers**  
(GB.323/INS/12/3)

**Decision**

*206. In the light of the information presented in the report, and on the recommendation of its Officers, the Governing Body decided that the representation was receivable with respect to Conventions Nos 111 and 144 and set up a tripartite committee to examine the representation. The Governing Body decided that the representation was not receivable in respect of Convention No. 154.*

(Document GB.323/INS/12/3, paragraph 5.)

**Fourth report: Representation alleging non-observance by Paraguay of the Equal Remuneration Convention, 1951 (No. 100), and the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), made under article 24 of the ILO Constitution by the Single Confederation of Workers**  
(GB.323/INS/12/4)

**Decision**

*207. In the light of the information presented in the report, and on the recommendation of its Officers, the Governing Body decided that the representation was not receivable.*

(Document GB.323/INS/12/4, paragraph 5.)

**Fifth report: Representation alleging non-observance by Poland of the Social Security (Minimum Standards) Convention, 1952 (No. 102), made under article 24 of the ILO Constitution by the Independent and Self-Governing Trade Union “Solidarnosc” (NSZZ “Solidarnosc”)**  
(GB.323/INS/12/5)

**Decision**

*208. In the light of the information presented in the report, and on the recommendation of its Officers, the Governing Body decided that the representation was receivable and set up a tripartite committee to examine it.*

(Document GB.323/INS/12/5, paragraph 5.)

**Thirteenth item on the agenda**

**Composition and agenda of standing bodies and meetings**  
(GB.323/INS/13(&Corr.))

**Decisions**

Committee of Experts on the Application of Conventions and Recommendations

**Reappointments**

*209. On the recommendation of its Officers the Governing Body reappointed, for a period of three years, the following members of the Committee of Experts on the Application of Conventions and Recommendations:*

- *Mr Brudney (United States);*
- *Mr Cheadle (South Africa);*
- *Ms Machulskaya (Russian Federation);*
- *Ms Monaghan (United Kingdom);*
- *Ms Owens (Australia);*
- *Mr Shah (India).*

(GB.323/INS/13, paragraph 1.)

*New appointments*

**210.** *In order to fill three of the four current vacancies, on the recommendation of its Officers, the Governing Body appointed the following persons as members of the Committee for a period of three years:*

- *Professor Shinichi Ago (Japan);*
- *Professor Lia Athanassiou (Greece);*
- *Professor Bernd Waas (Germany).*

(GB.323/INS/13, paragraph 2.)

13th African Regional Meeting (Addis Ababa, Ethiopia,  
30 November–3 December 2015)

*Invitation of international non-governmental organizations*

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

- *East African Trade Union Confederation (EATUC);*
- *East and Central African Social Security Association (ECASSA);*
- *Femmes Africa Solidarité (FAS);*
- *General Union of Chambers of Commerce, Industry and Agriculture for Arab Countries (GUCCIAAC);*
- *HelpAge International;*
- *International Confederation of Arab Trade Unions (ICATU);*
- *International Social Security Association (ISSA);*
- *New Faces New Voices (NFNV);*
- *Southern African Trade Union Coordination Council (SATUCC);*
- *UNI Global Union.*

(Document GB.323/INS/13, paragraph 6.)

Appointment of Governing Body representatives on various bodies

*Sectoral Meeting on Safety and Health in the Road Transport Sector (Geneva 12–16 October 2015)*

**212.** *The name of the Government member appointed as the Governing Body's representative, who will also chair the above Meeting, will be announced in due course.*

(Document GB.323/INS/13(&Corr.), paragraph 7.)

## **Closing statement**

**213.** *The Chairperson* said that the Governing Body had discussed a number of crucial issues over the course of its 323rd Session. In particular, the unanimous consensus around the programme and budget proposals was testament to the approach taken by the Director-General in listening to the constituents of the Organization. The support for the technical cooperation strategy provided further evidence of the confidence placed in his leadership. The discussion on the Standards Initiative had confirmed the dynamic established at the tripartite meeting held in February 2015, which offered a real plan of action and enabled the supervisory system to resume its work effectively. The session had also seen dialogue restored in Fiji with the signature of a tripartite agreement, in the presence of the Director-General. Furthermore, the Governing Body had agreed to trial a shorter, two-week format for the International Labour Conference, which would be put to the test at the 104th Session (2015). None of those achievements would have been possible without the political will for progress and the spirit of dialogue and cooperation which had allowed the Governing Body to pursue its work in a genuinely positive atmosphere.