



Governing Body

344th Session, Geneva, March 2022

Institutional Section

INS

Minutes of the Institutional Section

Contents

| | Page |
|---|------|
| Opening remarks..... | 5 |
| 1. Approval of the minutes of the 343rd Session of the Governing Body (GB.343/INS/1) | 11 |
| Decision | 11 |
| 2. Arrangements for the 344th Session of the Governing Body, including for the hearings of candidates and the election and appointment of the Director-General (GB.344/INS/2) | 12 |
| Decision | 12 |
| Summary of the written comments received during the consultations on the item by correspondence | 12 |
| Summary of the written comments received during the ballot of regular Governing Body members | 13 |
| 3. Agenda of the International Labour Conference | 13 |
| 3.1. Agenda of future sessions of the Conference (GB.344/INS/3/1)..... | 13 |
| Decision | 25 |
| 3.2. Arrangements for the 110th Session of the Conference (2022) (GB.344/INS/3/2)..... | 25 |
| Decision | 29 |

| | | |
|-----|---|----|
| 4. | Review of annual reports under the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work (GB.344/INS/4(Rev.1)) | 29 |
| | Decision | 33 |
| 5. | Work plan on the strengthening of the supervisory system: Proposals on further steps to ensure legal certainty and information on other action points in the work plan (GB.344/INS/5) | 34 |
| | Decision | 45 |
| 6. | Issues relating to the inclusion of safe and healthy working conditions in the ILO's framework of fundamental principles and rights at work (GB.344/INS/6 and GB.344/INS/6(Add.1)) | 45 |
| | Decision | 54 |
| 7. | Report on the outcome of the Global Forum for a Human-centred Recovery (GB.344/INS/7) | 55 |
| | Decision | 61 |
| 8. | Matters arising out of the work of the resumed part of the 109th Session (2021) of the International Labour Conference: Follow-up to the resolution concerning inequalities and the world of work (GB.344/INS/8) | 62 |
| | Decision | 69 |
| 9. | Report of the Tripartite Working Group on full, equal and democratic participation in the ILO's tripartite governance (GB.344/INS/9) | 70 |
| | Decision | 73 |
| 10. | Results of the ILO Action Plan for Gender Equality 2020–21, action plan-related findings of the high-level independent evaluation of the ILO's gender equality and mainstreaming efforts in 2016–21, and proposed outline of the Action Plan 2022–25 (GB.344/INS/10) | 74 |
| | Decision | 79 |
| 11. | Report of the Tripartite Working Group on options to ensure decent work in supply chains | 80 |
| 12. | Follow-up to the resolutions concerning Myanmar adopted by the International Labour Conference at its 102nd (2013) and 109th (2021) Sessions: Report of the Director-General on developments in Myanmar, including information on potential follow-up action by the 110th Session of the International Labour Conference (GB.344/INS/12 and GB.344/INS/12(Add.1)) | 80 |
| | Decision | 86 |
| 13. | Report by the Government of Bangladesh on progress made on the implementation of the road map taken to address all outstanding issues mentioned in the complaint concerning alleged non-observance of Conventions Nos 81, 87 and 98 (GB.344/INS/13(Rev.1)) | 88 |
| | Decision | 95 |

| | | |
|-------|---|-----|
| 14. | Assessment of progress made by the Government of the Bolivarian Republic of Venezuela in ensuring compliance with the recommendations of the Commission of Inquiry and, in light of that, consideration of all possible measures, including those foreseen in the ILO Constitution, for this purpose (GB.344/INS/14(Rev.1)) | 95 |
| | Decision | 104 |
| 15. | Reports of the Committee on Freedom of Association | 104 |
| | 397th Report of the Committee on Freedom of Association (GB.344/INS/15/1) | 104 |
| | Addendum: Presentation of the Committee on Freedom of Association annual report for the year 2021 (GB.344/INS/15/1(Add.1)) | 104 |
| | Decision | 110 |
| | 398th Report of the Committee on Freedom of Association – Measures taken by the Government of the Republic of Belarus to implement the recommendations of the Commission of Inquiry (GB.344/INS/15/2)..... | 110 |
| | Decision | 111 |
| 16. | Report of the Director-General: Regular report (GB.344/INS/16)..... | 111 |
| | Decision | 111 |
| 16.1. | First Supplementary Report: Report of the Meeting of Experts for the tripartite validation of the technical guidelines on general principles of labour inspection (13–16 December 2021) (GB.344/INS/16/1)..... | 111 |
| | Decision | 112 |
| 16.2. | Second Supplementary Report: Documents submitted for information only (GB.344/INS/16/2) | 113 |
| | Decision | 113 |
| 16.3. | Third supplementary report: Report of the committee set up to examine the representation alleging non-observance by France of the Termination of Employment Convention, 1982 (No. 158) | 114 |
| | Decision | 114 |
| 16.4. | Fourth Supplementary Report: Composition of the Committee on Freedom of Association (GB.344/INS/16/4)..... | 114 |
| | Decision | 114 |
| 16.5. | Fifth supplementary report: Report of the Committee set up to examine the representation alleging non-observance by Uruguay of the Protection of Wages Convention 1949 (No. 95) and the Social Security (Minimum Standards) Convention 1952 (No. 102) | 114 |
| | Decision | 114 |

| | | |
|-------|--|-----|
| 16.6. | Sixth supplementary report: Report of the Committee set up to examine the representation alleging non-observance by Argentina of the Occupational Safety and Health Convention 1981 (No. 155) and the Promotional Framework for Occupational Safety and Health Convention 2006 (No. 187) | 115 |
| | Decision | 115 |
| 17. | Reports of the Officers of the Governing Body | 115 |
| 17.1. | First report: Representation alleging non-observance by South Africa of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111)..... | 115 |
| | Decision | 115 |
| 17.2. | Second report: Representation alleging non-observance by Uruguay of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), and the Discrimination (Employment and Occupation) Convention, 1958 (No. 111) | 115 |
| | Decision | 116 |
| 17.3. | Third report: Representation alleging non-observance by Slovenia of the Occupational Safety and Health Convention, 1981 (No. 155), and the Protocol of 2002 to the Occupational Safety and Health Convention, 1981 | 116 |
| | Decision | 116 |
| 18. | Composition, agenda and programme of standing bodies and meetings (GB.344/INS/18(Rev.1)) | 116 |
| | Decision | 117 |
| 19. | The Russian Federation's aggression against Ukraine from the perspective of the mandate of the International Labour Organization (GB.344/INS/19) | 117 |
| | Resolution | 128 |
| | The Russian Federation's aggression against Ukraine from the perspective of the mandate of the International Labour Organization | 128 |
| | Other matters..... | 130 |
| | Tribute to the Clerk of the Governing Body | 130 |
| | Election of the Director-General of the ILO (private sitting) | 130 |
| | Decision | 130 |
| | Appointment of the Director-General of the ILO (public sitting)..... | 130 |
| | Closing remarks | 135 |
| | Appendix: Results of the vote | 137 |

Opening remarks

1. **The Chairperson** noted that the 344th Session of the Governing Body was being held in a hybrid format, with both in-person and online participation, due to the COVID-19 pandemic, and drew attention to the [Special arrangements and rules of procedure for hybrid sessions of the Governing Body of the ILO, approved for its 344th Session \(March 2022\)](#). Following consultations with the tripartite screening group in accordance with article 3.1.3 of the Standing Orders of the Governing Body, during which a number of communications from Governing Body members had been considered, the Officers of the Governing Body had decided to add an urgent item to the agenda, entitled “The Russian Federation’s aggression against Ukraine from the perspective of the mandate of the ILO”.
2. **A Government representative of the Russian Federation** expressed his delegation’s firm belief that the proposal by a group of Western countries to include an item on recent developments in Ukraine on the agenda of the session ran counter to the ILO’s mandate, was highly biased, politicized and counterproductive, did not address the root causes of the conflict and would not assist in bringing it to an early conclusion. The same was true for the draft resolution that would be submitted, which was flawed and omitted key points on the negative effects of the situation on workers and employers in the Russian Federation and the Donetsk and Luhansk regions. He strongly objected to the proposed agenda item and draft resolution. A lack of consensus among most regional groups had been evident during the consultations with the tripartite screening group, with some countries expressing clear objections. He therefore requested clarification of the basis for the item’s inclusion on the agenda and highlighted that the Governing Body could neither adopt its agenda nor continue with its work until the matter had been resolved.
3. **A Government representative of China** expressed his country’s support for the principles of national sovereignty and territorial integrity, and recalled that differences should be resolved in accordance with the Charter of the United Nations (UN). His Government opposed the escalation of tensions, but the ILO must respect its mandate, which related to the global governance of labour activities. Furthermore, the agenda for the current session had been the subject of lengthy consultations and already included urgent matters. As the hybrid format limited the time available, the addition of a further agenda item would have a negative impact on the discussion of the other items and was not in the interests of the tripartite mechanism.
4. **A representative of the Director-General** (Legal Adviser), responding to the request for clarifications, or rather the point of order, raised by the Government representative of the Russian Federation, said that the decision of the Officers of the Governing Body had been taken in accordance with article 3.1.3 of the Governing Body Standing Orders, which unambiguously stated: “The provisional agenda may be updated for any urgent matter arising between sessions by the Officers of the Governing Body following consultations with the other members of the tripartite screening group”; paragraph 34 of the introductory note to the Standing Orders contained a similar provision. The Officers’ decision for the inclusion of the urgent agenda item was therefore procedurally valid and could not be challenged. Furthermore, unlike the Standing Orders of the Conference (article 28), the Governing Body Standing Orders did not contain any provisions permitting a challenge to the inclusion of an item on the agenda. Nor did the ILO Constitution contain any provisions on the Governing Body’s agenda; under article 7(8) of the Constitution, the Governing Body regulated its own procedure. The Governing Body had determined that its agenda would be set in the manner set forth in article 3.1 of the Standing Orders, which clearly provided that an urgent item could be placed by decision of the Officers after consulting the screening group, and that this decision would

be final. Lastly, the requirement to consult the members of the tripartite screening group meant that the Officers must make a genuine effort to listen to the views of the screening group, but that did not mean that there was a need for unanimity or a joint decision; such a decision was at the Officers' discretion.

5. **The Government representative of the Russian Federation** took note of the decision but expressed his delegation's strong disagreement with it, as there had been a lack of transparency and the opinions of a number of Member States had been ignored.
6. **The Chairperson** noted the objection.
7. **The Director-General** extended a warm welcome to the participants at the session, which was being held in extraordinary circumstances, with a significant number of participants attending in person while others were participating online. The hybrid format constituted an improvement to the conditions in which the Governing Body was undertaking its work, and progress in the fight against COVID-19. The physical presence of Governing Body members was also important, given the significance of the decision to be made in respect of the election of a new Director-General. The successful candidate would be able to count on his, and the Office's, full cooperation to ensure a smooth transition.
8. The extraordinary circumstances were also reflected in the decision to include an agenda item on the Russian Federation's aggression against Ukraine from the perspective of the mandate of the ILO. The attack by the Russian Federation against Ukraine stood as a brutal repudiation of the ILO's mission to promote peace through social justice. Throughout its long history, the ILO had successfully confronted such challenges to its fundamental values and goals, and the Governing Body must assume its moral responsibility and continue that tradition.
9. However, those extraordinary circumstances must not distract the Governing Body from its very full agenda, which included the matter of the inclusion of safe and healthy working conditions in the ILO's framework of fundamental principles and rights at work. Those discussions were reaching a decisive moment as the Governing Body sought to finalize the draft resolution to be considered by the International Labour Conference at its 110th Session (2022); good progress had been made towards enabling the Conference to take a decision that would have a powerful impact in an area where the ILO had clear constitutional responsibilities. The Governing Body would also consider the report on the outcome of the Global Forum for a Human-centred Recovery. The Forum had responded to the need to strengthen institutional cooperation to boost international policy coherence for a human-centred recovery and had represented an important event for the ILO, with high-level participation. It had led to several important commitments on cooperation, and consideration should be given to convening similar forums in the future, given that considerable work remained to bring about the necessary system-wide, permanent coherence.
10. The Governing Body had several country situations on its agenda. In the case of Bangladesh, it would assess the progress report on the implementation of the road map to address the issues raised in the article 26 complaint. The Director-General had followed up on the Governing Body's instruction to engage with the Government of the Bolivarian Republic of Venezuela to establish a social dialogue forum to ensure compliance with the recommendations of the Commission of Inquiry. The forum had convened its inaugural session on 7 March 2022, although the Federation of Chambers and Associations of Commerce and Production of Venezuela (FEDECAMARAS), party to the original complaint, had expressed reservations in respect of its terms of reference. The forum was expected to meet again in late April, with the technical support of the ILO. Given the protracted consideration of the case, those steps were significant and positive. The situation in Myanmar remained a matter of grave

concern. The ILO's activities there had been restricted severely and the issue of government credentials at the United Nations General Assembly remained unresolved. In line with the instructions of the last session of the Governing Body, the document relating to the Myanmar case provided information on potential action by the Conference at its 110th Session (2022) in response to the situation.

11. The Governing Body would also consider reports on programme implementation and financial results for 2020–21. The documents in question reflected the robust measures adopted by the Office to ensure business continuity throughout the COVID-19 pandemic. The ILO's achievement of its aims during the pandemic – to adapt its work to the circumstances, to be a relevant actor in the world of work and the COVID-19 response and to remain supportive of its constituents – was evidenced by the fact that around 45 per cent of its programme results contributed directly to the COVID-19 response. There had been an underspend of almost US\$41 million of the approved budget as a result of the constraints on the Organization over the previous biennium, and a shortfall of US\$68.5 million in the receipt of assessed contributions; the resulting net shortfall had been covered using the Working Capital Fund.
12. He drew the Governing Body's attention to the recommendation to extend the mandate of the tripartite working group on the full, equal and democratic participation in the ILO's tripartite governance by 12 months and the fact that the 1986 Instrument for the Amendment of the Constitution of the International Labour Organisation (the 1986 Amendment) required just eight further ratifications to enter into force, three of which must be by Member States of chief industrial importance. He thanked the Government of South Africa for hosting the upcoming Fifth Global Conference on the Elimination of Child Labour; the current increase in that abusive practice predated the COVID-19 pandemic, and the Global Conference offered an invaluable opportunity for the international community to renew the commitment to its eradication.
13. It was hoped that the 110th Session (2022) of the International Labour Conference would mark a return to significant in-person participation, and although determining the necessary arrangements was challenging, given the obstacles posed by the COVID-19 pandemic and a shortage of meeting room capacity, participants' constructive spirit and readiness to assume their responsibilities would enable the Conference to take on a full agenda, marking another milestone in the fight against COVID-19.
14. **The Employer spokesperson** noted the value of and pleasure she had felt in seeing colleagues in person, after two years of virtual meetings. While it was to be hoped that the virtual format would be progressively replaced by in-person interaction, retaining the possibility of virtual participation for those unable to travel would perhaps allow for more inclusive deliberations.
15. The most important item on the agenda of the current session was the election of the Director-General, which came at a time when the multilateral system was in crisis. The Organization's future would depend largely on the leadership, expertise and experience of the next Director-General. Members of the Governing Body had a strong interest in appointing a Director-General that understood the need to modernize the ILO, following the commitments made in the ILO Centenary Declaration for the Future of Work (2019). The need for transparency and integrity should have been taken into consideration more seriously in the arrangements for candidate hearings and for the election and appointment of the Director-General, given the ongoing challenges relating to travel, and should be enhanced in similar processes in the future. In addition, consideration should be given to modernizing and adapting the rules for future elections.
16. The Employers were deeply concerned about the impact of the Ukrainian crisis on employers, workers and all citizens in the regions concerned, and consequently on the work of the ILO.

Discussions under the item that had been added to the agenda on that subject should relate strictly to the ILO's mandate.

17. The purpose of the discussion on issues relating to the inclusion of safe and healthy working conditions in the ILO's framework of fundamental principles and rights at work was to recognize and clarify that the existing constitutional principle was one of fundamental importance for the attainment of the Organization's objectives. She appealed for constructive and realistic proposals and positions, so as to achieve a consensual position prior to the 110th Session of the Conference. She highlighted the significance of the items on the agenda of future sessions of the Conference and arrangements for the 110th Session, given the important topics that would be addressed at that session for the first time. The success of the 110th Session was crucial, since it would be the first large face-to-face gathering since the start of the COVID-19 pandemic and the first session of the Conference held after the election of the new Director-General.
18. The item on the ILO strategy on knowledge and innovation across the Organization was essential and a decision was needed on that item to provide a clear mandate for the new Innovation and Knowledge Management Unit. The report on ILO Programme Implementation 2020–21 was the only tool available to assess the work of the Office over the previous biennium and the outcome of that discussion would inform the forthcoming programme and budget proposals. She recalled that the Employers had not supported the Programme and Budget for 2020–21, among other reasons because of the need for greater transparency. The continued lack of consideration for professional and geographical diversity by the Office in its recruitment policies, and lack of attention to the matter in the information document relating to the composition and structure of the staff, was deeply regrettable. She called on the Office to correct the persistent imbalance in terms of profiles and skills as the performance of the Organization was at stake.
19. The assessment of progress made by the Government of the Bolivarian Republic of Venezuela in ensuring compliance with the recommendations of the Commission of Inquiry was one of the most important items on the agenda for the Employers. She expressed concern regarding the situation of the former president of the Superior Council of Private Enterprise (COSEP) in Nicaragua, who had been sentenced to 13 years of imprisonment for non-existent crimes at a trial that had involved violations of due process and rights. The Employers had requested an urgent intervention by the Director-General and would appreciate an update on the situation before the end of the current session of the Governing Body.
20. **The Worker spokesperson** agreed that it was a pleasure to be able to meet colleagues in person and emphasized the importance of doing so, particularly in times of crisis. As stated on the website of the International Trade Union Confederation (ITUC), the international trade union movement condemned the Russian invasion of Ukraine and demanded that all Russian forces should leave Ukraine immediately. It noted that normal working lives had stopped in Ukraine, since workers and their families were sheltering from bombardment and seeking refuge in neighbouring countries. A petition set up by the ITUC called on world leaders to take urgent and definitive steps to initiate dialogue and find a peaceful solution to the crisis, in line with the UN Charter. She therefore welcomed the introduction of an agenda item that would allow for a discussion of the matter, based on the clear mandate of the ILO, which considered social justice essential to peace.
21. The Workers were looking forward to taking steps towards the inclusion of safe and healthy working conditions in the ILO's framework of fundamental principles and rights at work. Occupational safety and health had been a fundamental right since the establishment of the

ILO but had previously lacked official recognition as such. She agreed that a proper discussion was needed with a view to reaching consensus at the International Labour Conference.

22. Several important areas of work related to the supervisory system, including the work plan on the strengthening of the supervisory system, the third evaluation of the functioning of the Standards Review Mechanism Tripartite Working Group (SRM TWG), and the item on the Committee of Experts on the Application of Conventions and Recommendations. The follow-up to the resolution concerning inequalities and the world of work, especially in view of the increase in inequalities both generally and since the beginning of the COVID-19 pandemic, was an area in which impactful outcomes were needed. The addition of a new agenda item did not mean that other places in the world where livelihoods were threatened could be forgotten. In that respect, the discussion on Myanmar should focus on what more could be done, other than adopting another resolution and expressing strong concern at the situation. The ILO needed to show that it could have impact on the ground.
23. Concerning the election of the Director-General, the candidate hearings had revealed the candidates' strong commitment to the ILO and its mandate, its normative and supervisory roles, and to leading the Organization into its next century based on its strong mandate of social justice and peace, which was more important than ever. The Workers hoped to see the election of a candidate that supported social justice, peace and democracy.
24. **Speaking on behalf of 55 countries,**¹ a Government representative of Canada made a cross-regional joint statement emphasizing that the ILO had a mandate to pursue universal and lasting peace through social justice. Those very aims were being violated, however, through the unprovoked and unjustifiable Russian invasion of Ukraine, which was causing enormous suffering and tragic loss of life. It was an egregious violation of international law, including the UN Charter, and the fundamental principles of the ILO. The countries strongly condemned the military assault of the Russian Federation with the support of the Government of Belarus, and called on the Russian leadership to cease its aggression immediately.
25. The invasion had forced Ukrainian workers, employers and their families to flee their homes, workplaces, businesses and country. Those who had stayed to maintain their livelihoods were risking their lives and many had already died. The destruction of jobs and enterprises and the forced displacement of the workforce would have a long-lasting impact on the world of work in Ukraine, and beyond. The Governing Body had a responsibility to call for the protection of workers, employers and their families in Ukraine and to take measures, within its purview, to urge the Russian Federation to end its aggression. All Member States bore duties and obligations as a result of their membership of the ILO. Furthermore, in the ILO Centenary Declaration the tripartite constituents had unanimously reaffirmed that the concerted action of governments, employers and workers was essential to the achievement of social justice, democracy and the promotion of universal and lasting peace, and had recognized that conflict and humanitarian emergencies were a threat not only to social and economic progress but also to securing shared prosperity and decent work for all.

¹ Albania, Australia, Austria, Barbados, Belgium, Bosnia and Herzegovina, Bulgaria, Canada, Chile, Colombia, Costa Rica, Croatia, Cyprus, Czechia, Denmark, Ecuador, Estonia, Finland, France, Georgia, Germany, Greece, Guatemala, Hungary, Iceland, Ireland, Israel, Italy, Japan, Latvia, Lithuania, Luxembourg, Malta, Mexico, Montenegro, Netherlands, New Zealand, North Macedonia, Norway, Peru, Poland, Portugal, Republic of Korea, Republic of Moldova, Romania, Slovakia, Slovenia, Spain, Sweden, Switzerland, Turkey, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay.

26. The Governing Body could not remain indifferent while the ILO's founding principles were being treated with contempt by two Member States. The tripartite constituents, Governments, Employers and Workers, were translating those principles into acts of solidarity with the people of Ukraine, by providing support, a safe haven and livelihoods for those who had fled. The Governing Body must stand up for international law and the principles on which the Organization had been founded. It must support the sovereignty and territorial integrity of Ukraine and stand hand in hand with the workers and employers and people. The countries welcomed the addition of the urgent matter to the agenda and urged the Governing Body to voice its unequivocal support to the tripartite constituents of Ukraine. The Russian invasion of Ukraine was unprecedented and required a strong and urgent response; the Governing Body could not stay silent.
27. **Speaking on behalf of the European Union (EU) and its Member States**, a Government representative of France said that Turkey, North Macedonia, Montenegro, Albania, Iceland, Norway, Ukraine, the Republic of Moldova and Georgia aligned themselves with her statement. They aligned themselves with the statement made by the representative of Canada on behalf of 55 governments. She emphasized that the Russian Federation's aggression against Ukraine included attacks on civilians. That was an attack not only on a free, democratic and peaceful country but also on global stability and security, and constituted a violation of international law, human rights and basic humanitarian principles. The EU condemned in the strongest terms the Russian Federation's unprovoked and unjustified aggression against Ukraine, and the involvement of Belarus. The EU supported the democratically elected Government of Ukraine and its efforts to defend its people and its territory within internationally recognized borders.
28. The EU and its Member States fully aligned themselves with the UN Secretary-General's appeal to the Russian Federation to stop its aggression and with his grave concern over the civilian casualties and the human rights implications. They also endorsed the Director-General's statement describing it as one of the darkest chapters in the ILO's century-long history and a brutal repudiation of the Organization's mission to promote peace through social justice. The EU and its Member States stood by the courageous and determined women and men of Ukraine, and their commitment to freedom, sovereignty and democratic values, and expressed unwavering support for the tripartite constituents in Ukraine.
29. The EU and its Member States commended the ILO for its invaluable work in striving for fundamental principles and rights at work, and recalled that other situations in which human and labour rights were being violated should not be forgotten. They considered the aggression of the Russian Federation to be an attempt to reshape the core principles of international relations. Multilateralism, with the UN and the ILO at its core, remained the only way to achieve global peace, security and prosperity. The EU stood ready to work with all ILO constituents to defend the principles and values enshrined in the ILO Constitution. The Declaration of Philadelphia asserted that all human beings have the right to pursue both their material well-being and their spiritual development in conditions of freedom and dignity, of economic security and equal opportunity. The EU, together with a group of countries, would propose a draft resolution on the matter for the consideration of the Governing Body, and was counting on broad support from all constituents. The EU and its Member States would continue to be seized of the matter, and called on the ILO to consider the impact of the Russian Federation's aggression against Ukraine on the ILO's work, mandate and tripartite constituents at the current and future sessions of the Governing Body and at the International Labour Conference.
30. **The Chairperson** announced that further to consultations among the Officers and in accordance with article 1.8.3 of the Standing Orders of the Governing Body, which allowed

States that are not members of the Governing Body to speak, with the authorization of the Officers, if the situation in those States had been specifically referred to in the discussion, a Government representative of Ukraine was authorized to take the floor.

31. **A Government representative of Ukraine** stated that on 21 February 2022, the ILO's founding principles of universal and lasting peace based on social justice had come under attack. The Russian Federation, supported by Belarus, had launched a full-scale invasion of Ukraine, in violation of the UN Charter, international law and the fundamental principles of the ILO. To date, thousands of civilians in Ukraine had been killed, including 90 children. According to the Office of the United Nations High Commissioner for Refugees (UNHCR), over 3 million people had fled the country and at least 1.85 million had become internally displaced. The damage to Ukraine's economy had exceeded US\$120 billion. The ongoing military aggression by the Russian Federation was continuing to take its toll, with dire, unprecedented repercussions around the globe, including on efforts to ensure decent work. On 2 March 2022, the UN General Assembly had adopted by an overwhelming majority a resolution demanding that the Russian Federation immediately cease its use of force against Ukraine and refrain from any further unlawful threat or use of force. The resolution also called for efforts by the UN and other international organizations, including the ILO, to respond to the humanitarian and refugee crisis generated by the aggression. She expressed appreciation for the ILO Director-General's statement of 3 March 2022 emphasizing that working people were among the first victims of the aggression, and that the devastation of jobs, enterprises and livelihoods would be massive and endure for many years to come. The Russian aggression would have a long-lasting detrimental impact on poverty and labour rights globally.
32. The international community and the ILO must act immediately. The ILO Governing Body could not hold meetings while the armed invasion of the country was ongoing without paying attention to the grim reality unfolding on the global scene. She expressed gratitude to the 55 countries that had stated their opposition to the Russian aggression, and supported the formal request to add an item to the Governing Body's agenda. She reiterated the call for the ILO to consider the impact of the aggression by the Russian Federation against Ukraine on the ILO's work, mandate and tripartite constituents at the current and future sessions of the Governing Body, and at the International Labour Conference.

1. Approval of the minutes of the 343rd Session of the Governing Body (GB.343/INS/1)

33. At its meeting on 1 March 2022, the Screening Group agreed to put the item forward for a decision by correspondence and the decision was approved by consensus and announced to all Governing Body members by a communication of 11 March 2022.

Decision

34. **The Governing Body approved the minutes of its 343rd Session, as amended.**
(GB.344/INS/1, paragraph 2)

2. Arrangements for the 344th Session of the Governing Body, including for the hearings of candidates and the election and appointment of the Director-General (GB.344/INS/2)

35. In preparation for the adoption of a decision by correspondence, the Office held tripartite consultations with Governing Body members on this item between 28 February and 2 March 2022.
36. As no consensus was reached on the adoption of the draft decision contained in the document, the Officers of the Governing Body, after consulting the Screening Group, determined that the draft decision should be submitted to a ballot of only the regular members of the Governing Body, which opened on 3 March 2022. At the close of that ballot, at midnight on 7 March 2022, the Governing Body adopted the decision with 28 votes in favour, 13 votes against and 15 abstentions.

Decision

37. The Governing Body, by correspondence:

- (a) decided to extend the Special arrangements and rules of procedure applicable to virtual sessions of the Governing Body to the 344th Session with the modifications contained in Appendix A to document GB.344/INS/2;
- (b) requested its Officers to keep the situation under review to determine, in consultation with the tripartite Screening Group, whether and to what extent the presence of tripartite constituents could be increased for the Session;
- (c) decided that the hearings of candidates and the election of the Director-General in private sitting should take place in person, and approved the process and arrangements contained in Appendix B to document GB.344/INS/2 for the hearings of candidates and the election and appointment of the Director-General;
- (d) requested its Officers to prepare proposals for a new decision if at any time before or during the Session the sanitary and travel situation makes it necessary to provide for the remote participation of Governing Body members in the hearings of candidates or the election and appointment of the Director-General; and
- (e) decided to extend the duration of the 344th Session of the Governing Body until Saturday, 26 March 2022.

(GB.344/INS/2, paragraph 10)

Summary of the written comments received during the consultations on the item by correspondence ²

38. **The Government of Colombia** did not agree with the draft decision contained in paragraph 10 of the document, insofar as subparagraph (c) did not allow equal access to participation for all members of the Governing Body at a time of transition, when restrictions due to the COVID-19 pandemic were still in place in many parts of the world. The ILO had experience of holding private meetings with remote participation and there were multiple tools that would allow the

² The [detailed result of the ballot](#) and the complete text of the comments in the original language are available on the [Governing Body's web page](#), together with the decision.

hearings to be conducted securely. There had to be some trust that the tripartite actors would exercise their duties as members of the Governing Body in a responsible manner. However, the Government did not wish to block consensus.

39. **The Government of Morocco** noted that, further to its consideration of the document, it had no particular objection to the draft decision in paragraph 10 and was not opposed to its adoption. However, subparagraph (b) of the draft decision should take into account the logistical, administrative and visa procedures that would have to be followed by representatives wishing to take part in the work of the session, if a decision was taken at a later stage to increase the number of tripartite constituents participating in person. Furthermore, the issue of the types of vaccinations that may be required to enter Swiss territory might prevent the participation of some African government representatives.
40. **An Employer member from Japan** did not agree with the draft decision and wished to block consensus pending further clarification of the arrangements. He would not insist that the casting of votes should also take place virtually, but any titular and deputy Employer members who were not able to participate in person should at least be allowed to have access to the candidates' hearings.
41. **An Employer member from Singapore** indicated that, while he did not agree with the draft decision, he did not wish to block consensus. However, he noted and shared some of the views that had been expressed and concerns that had been raised.

Summary of the written comments received during the ballot of regular Governing Body members

42. **An Employer member from Japan** stated that all regular and deputy members who were not able to participate in person at the candidates' hearings should at least be allowed to access them virtually. In the event that any of the three groups of constituents were unable to exercise their full voting strength, the Governing Body would need to seek an alternative arrangement.

3. Agenda of the International Labour Conference

3.1. Agenda of future sessions of the Conference (GB.344/INS/3/1)

43. **The Chairperson** said that the document before the Governing Body was intended to facilitate consideration of proposals for the agenda of the International Labour Conference for 2023 and beyond, as well as the strategic approach to be followed in that regard. She recalled the Governing Body's decision at its 343rd Session to urgently address the item on just transition. At its current session, the Governing Body was required to select an item for general discussion at the 111th Session of the International Labour Conference in 2023 and decide on a standard-setting discussion to be included on the agenda for the Conference in 2024.
44. **The Worker spokesperson** recalled that the recurrent discussions under the follow-up to the ILO Declaration on Social Justice for a Fair Globalization (Social Justice Declaration) and the related General Surveys had been intended for use as tools to identify regulatory gaps and areas for future standard-setting. Her group agreed to place on the agenda of the 110th Session (2022) of the Conference the approval of amendments to the Code of the Maritime Labour Convention, 2006 (MLC, 2006), subject to the adoption of any amendments by the Special Tripartite Committee of that Convention at its meeting in May 2022.

45. She reiterated her group's support for a standard-setting discussion on just transition towards environmental sustainability, which would require time for preparation. Therefore, she expressed support for the double discussion procedure in 2024 and 2025. She welcomed the reference to just transition in the Glasgow Climate Pact, among the measures contained therein. She highlighted the section on finance, technology transfer and capacity-building for mitigation and adaptation, and the need for multilateral institutions to consider how climate vulnerabilities should be reflected in the provision and mobilization of concessional financial resources and other forms of support, including special drawing rights. The ILO's *Guidelines for a just transition towards environmentally sustainable economies and societies for all* remained valid and contained examples of how just transition was being implemented as part of national action plans, which demonstrated that further discussion on the meaning of just transition was not required. While she recognized the emerging market relating to climate change, which included insurance, patents of new technologies, competition and the privatization of clean energy, the ILO's role should not be to elaborate a standard in the form of a global regulatory framework as presented in paragraph 15 of Appendix I to document GB.344/INS/3/1. Rather, any ILO standard should provide guidance on the development of public policies to create decent jobs for just transition. Her group could only support a standard based on the nine key policy areas identified in the comprehensive framework provided by the Guidelines. Her group supported developing a Protocol on a just transition to the Employment Policy Convention, 1964 (No. 122), which would situate the promotion of full, productive and freely chosen employment in the context of just transition measures.
46. Given the urgent need to address climate change, the ILO could consider adopting a resolution on just transition for an equal world at the 110th Session (2022) of the Conference. That would provide the ILO with the political mandate to promote just transition, in line with the process followed by the Conference on inequalities and the world of work. It would also enable the ILO to address increasing concerns regarding energy and the use of fossil fuels in relation to the crisis in Ukraine.
47. Her group supported a general discussion at the 111th Session (2023) of the Conference on decent work and the care economy and welcomed the scope of the discussion outlined in Appendix I to document GB.344/INS/3/1. Even before the COVID-19 pandemic, women had been performing three quarters of all unpaid care work, which had a negative impact on their ability to access full-time decent work and to remain in and advance at work. The pandemic had exacerbated that gender inequality, as women had shouldered additional childcare and other caring responsibilities while also educating children at home. Furthermore, efforts to curb the spread of COVID-19 had led to significant job losses in female-dominated sectors.
48. She reiterated the call for achieving gender equality at work contained in the ILO Centenary Declaration and recalled that the global call to action adopted in June 2021 had linked investment in the care economy to a job-rich recovery with decent work and inclusive growth. The COVID-19 pandemic had highlighted the importance of the care economy for women's opportunities in the labour market, both as workers and beneficiaries. It had also emphasized the need for transformative policies, social dialogue and a more rigorous implementation of policies that paid particular attention to young women, women working in the informal economy and women affected by multiple and intersecting forms of discrimination. The ILO report on *Care at work: Investing in care leave and services for a more gender equal world of work*, published in March 2022, outlined persistent gaps in care services for workers and their families, indicating that 300 million jobs would need to be created by 2035 in order to cover needs linked to maternity, paternity, childcare and long-term care. A general discussion at the

Conference would take stock of those developments and provide guidance for Member States and the Office on investing in care and decent work.

49. Her group also supported placing the consolidation of instruments on chemical hazards on the agenda of the 114th Session (2026) of the Conference, with a view to the adoption of a standard in the form of a Protocol to the Chemicals Convention, 1990 (No. 170). Given the high degree of technical expertise required to develop that standard, her group would, exceptionally, support the proposal of a single discussion preceded by a two-week preparatory technical conference in the last quarter of 2023. She agreed with the proposal that delegations should comprise one Government, one Employers' and one Workers' delegate, supported by advisers. She requested the Office to submit to the 346th Session of the Governing Body standard-setting proposals on ergonomics and manual handling and on guarding of machinery, following the procedure outlined in paragraph 33 of document GB.344/INS/3/1. Four years since the submission of those proposals to the Governing Body, it was time for the recommendations of the SRM TWG concerning standard-setting in those areas to be followed up.
50. Concerning the four items that required further work before proposals could be made for their inclusion on the agenda of the Conference, she reiterated her comments made during the 343rd Session of the Governing Body expressing her group's strong support for a standard on decent work in the platform economy to be discussed in 2024 or 2025, depending on the decision made regarding the proposed standard-setting discussion on a just transition. The meeting of experts on decent work in the platform economy to be held in October 2022 would provide further guidance in that regard.
51. With regard to the draft decision, the options proposed were confusing and she would therefore refrain from further comment at that time.
52. **The Employer spokesperson** agreed with subparagraph (c) of the draft decision, on the approval of amendments to the Code of the MLC, 2006, subject to the outcome of the meeting of the Special Tripartite Committee in May 2022.
53. Concerning the agenda of the 111th Session of the Conference (2023), her group strongly supported including an item on a just transition in the form of a general discussion. Climate change policies had become a priority and it was time for the ILO to have a full and up-to-date discussion on a just transition, as called for in the ILO Centenary Declaration and the Global call to action for a human-centred recovery. The Governing Body itself had emphasized the importance of such a discussion. The ILO must be at the forefront of work on a just transition in view of the importance of discussions on the socio-economic and employment impacts of climate change. The ILO *Guidelines for a just transition towards environmentally sustainable economies and societies for all* of 2015 did not provide a clear road map for ILO action, instead focusing on measures to be implemented by governments and social partners. A good outcome of a general discussion on a just transition would equip the ILO with the authority to define the concept of a just transition, identify challenges and opportunities, and provide the Office with specific areas of action relating to employment and social policies to tackle climate change. However, the Employers' group did not agree that a standard-setting discussion was appropriate that item. Activities relating to a just transition should be guided by up-to-date data and developments, whereas a standard would remain static and would quickly become outdated by developments. In addition, her group strongly disagreed with the suggestion in Appendix I to document GB.344/INS/3/1 that a standard-setting item would add an important political dimension and demonstrate the importance constituents attached to a just transition. It was incorrect to imply that some discussion formats carried more importance than others.

The format of a discussion should be chosen based on how to best address each subject matter. Finally, having a standard-setting discussion on a just transition in 2024 or later would entail having two standard-setting discussions in parallel, which was unrealistic and inconsistent with established practice. Her group could support the inclusion of a just transition on the Conference agenda only as a general discussion.

54. As to the agenda of the 112th Session of the Conference (2024), her group supported a general discussion on decent work and the care economy, especially in the light of the COVID-19 crisis and recovery. The items on ergonomics and manual handling, chemical hazards and guarding of machinery, which stemmed from the recommendations of the SRM TWG, should each be discussed in a double discussion, owing to their complexity. Sufficient technical preparation and discussion could not be achieved through preparatory conferences, which would result in less time for the consideration of the items and which raised questions relating to rules of procedure, duration, composition and financing. Furthermore, preparatory conferences would overload the ILO programme of meetings and stretch the capacity of all groups to engage in meaningful discussions. The Governing Body had therefore already agreed that biological hazards should be included on the agenda as a double discussion, and that same process should be applied to the items on ergonomics and manual handling, chemical hazards and guarding of machinery.
55. On the four items that required further work prior to their possible inclusion in the agenda of future sessions of the Conference, she noted that there had been no major developments since the previous session of the Governing Body and thus referred to the comments she had made at that session; it would be premature to give further consideration to those items at the current time. She noted that the Office had not included the following items that her group had supported previously: First, ensuring that education and training systems are accessible and responsive to labour market needs, with an emphasis on employability and the role of the social partners; that would build on the outcome of the Working Party on skills and lifelong learning at the 109th Session (2021), deepen the understanding of labour market conditions and the transformation of work, and allow employers and workers to access the skills needed in growing businesses. Second, the role of the ILO and its constituents in supporting a structural transformation of the economy towards higher levels of productivity. As recognized in the ILO Centenary Declaration, increasing productivity was a top priority for all ILO constituents. A job-rich recovery from the COVID-19 pandemic had to be driven by increased productivity within and across sectors, and barriers to increasing productivity must be addressed. A discussion on productivity at the Conference would build on existing ILO approaches, and could address issues such as how the ILO could promote sustained productivity gains in a rapidly changing world of work; the steps Member States should take to enhance productivity-driven inclusive economic growth and a job-rich recovery; and the measures that could be taken to help enterprises to innovate and grow while promoting decent work in a highly competitive environment. Third, innovative approaches to tackling informality and promoting transitions towards formality, which was one of the greatest challenges faced by societies and labour markets. While the Social Protection Floors Recommendation, 2012 (No. 202), provided a framework for tackling informality, the ILO must strengthen its efforts; a Conference discussion on lessons learned and innovative approaches to encouraging formalization would provide new impetus to continue existing work.
56. She reiterated her group's support for initiating a new cycle of recurrent discussions. An evaluation of how previous recurrent discussions had contributed to the implementation of the Social Justice Declaration, and a discussion of the implementation of the Declaration more broadly, would be beneficial. That evaluation could take place at the 2025 session, prior to the

launch of a new cycle. The impact of the evaluation on General Surveys would be limited, as the 2024 and 2025 General Surveys could inform the first discussion of the new cycle. However, the main purpose of General Surveys was to compile measures that governments had taken to give effect to the provisions of the relevant ILO Conventions or Recommendations, and to indicate any obstacles they had encountered to ratification or implementation.

57. As to the draft decision, the Employers' group supported a general discussion on a just transition and on decent work in the care economy (option 2 of subparagraph (a)) and a double discussion on the consolidation of instruments on chemical hazards (option 2 of subparagraph (b)), and supported paragraph 36(c).
58. **Speaking on behalf of the group of Latin American and Caribbean countries (GRULAC)**, a Government representative of Chile highlighted the need for a clear, robust and up-to-date body of international labour standards that responded to changes in the world of work and protected workers while considering the needs of enterprises. The group favoured option 2 of subparagraph (a): an item on a just transition for a general discussion in 2023 and an item on decent work and the care economy for a general discussion in 2024. With respect to an item on the consolidation of instruments on chemical hazards, the group favoured option 2, as a double discussion represented the best way to develop a standard. The group supported subparagraph (c).
59. **Speaking on behalf of the Asia and Pacific group (ASPAG)**, a Government representative of Australia expressed his group's continued support for a clear, strategic approach to the Conference agenda. For the 111th and 112th Sessions, ASPAG supported option 2, for a general discussion on each item. The matter of a just transition concerned fundamental changes to the world of work, and the ILO's participation in the related global debate would ensure that all constituents were involved in decision-making. A general discussion on the topic would therefore be timely and allow constituents' needs to be incorporated into guidance on the transition process. The topic of decent work and the care economy was of particular importance, as the COVID-19 pandemic had deepened the decent work deficit and the difficulties faced by women in balancing paid employment with unpaid care work. A general discussion on the matter would emphasize the value of an inclusive and gender-responsive recovery to the realization of the 2030 Agenda for Sustainable Development. His group preferred the second option, with a general discussion on a just transition at the 111th Session and a general discussion on decent work in the care economy at the 112th Session, but could support option 3.
60. With regard to standard-setting on occupational safety and health, some members of the group had expressed support for a double discussion (option 2), but the group could consider the first option to hold a single discussion preceded by a preparatory technical conference, which should enjoy broad participation. If option 1 was preferred by the Governing Body, the Office should provide detailed information on the arrangements, standing orders and budget for the preparatory conference to allow for robust discussion at the 346th Session of the Governing Body. ASPAG supported subparagraph (c) of the draft decision.
61. **Speaking on behalf of the Africa group**, a Government representative of Niger noted that future sessions of the Conference would take place in unique circumstances that the Governing Body must take into account in its current discussion. It should focus on the genuine priorities in view of the numerous challenges and on areas where tangible outcomes could be achieved. His group remained committed to building a strategic, coherent approach to agenda-setting. Several of the options set out in the draft decision moved away from the matters of social justice and a human-centred approach to development, a just transition,

inclusive governance and social security for all. The ILO's standard-setting role in addressing changes in the world of work, seeking balance between new technologies and new forms of work, and addressing profound changes due to climate change and the pandemic had been neglected. Genuine discussion was needed on other matters of common concern, such as access to labour justice, decent work for all and the promotion of inclusive social and employment protection policies through international cooperation. The agenda of future sessions should therefore address the achievement of the Sustainable Development Goals, as well as strategic objective of decent work for all. His group supported the second option of the draft decision.

62. **Speaking of behalf of the group of industrialized market economy countries (IMEC)**, a Government representative of the United Kingdom of Great Britain and Northern Ireland emphasized the unprecedented challenges to the world of work posed by climate change. The ILO must take the lead to ensure that decent work was safeguarded in the transition to green economies; a lack of action would neglect the Organization's mandate and carry the risk that another international organization could set an international standard that would not be negotiated on a tripartite basis. The 2015 *Guidelines for a just transition towards environmentally sustainable economies and societies for all* offered an excellent framework and, if elevated to the status of an international labour standard, would mean that work on a just transition to green economies would be supervised. The group agreed with the Office that a standard did not need to be overly prescriptive. IMEC therefore supported the first option for subparagraph (a) of the draft decision, but group members had differing opinions on the form that the standard should take. She recalled that follow-up to the recommendations of the SRM TWG was vital, including when considering standard-setting items for the Conference agenda. Without information on the budgetary implications of the proposed technical conference to prepare for standard-setting to consolidate the instruments on chemical hazards, the group was unable to express a preference for either option for subparagraph (b). IMEC supported subparagraph (c).
63. **Speaking on behalf of the EU and its Member States**, a Government representative of France said that Serbia, Albania, Ukraine and Georgia aligned themselves with the statement. The EU and its Member States aligned themselves with the IMEC statement. He emphasized that the ILO should lead the just transition towards environmentally sustainable economies, which must avoid exacerbating inequality and poverty, and could leverage its position to guide the action of multilateral bodies. In addition, a general discussion on decent work and the care economy would be timely, given that investment in care could meet pressing social needs and contribute to child development, women's employment and job creation. Gender equality and decent work were hindered by the unpaid and informal nature of much care work; a general discussion on the topic could address public investment in quality care services, decent work policies for care workers, support for unpaid carers who wished to enter paid employment and the formalization of paid care work.
64. Follow-up to the Standards Review Mechanism must be integrated into ILO activities, including the setting of the Conference agenda, as a matter of priority. Measures to accelerate decision-making should be flexible, innovative and efficient in terms of time and costs; however, the option of the preparatory technical conference did not meet those criteria. Any such conference should be similar to tripartite technical meetings, with the social partners' participation costs borne by the Office. The EU and its Member States supported a standard-setting discussion on the consolidation of instruments on chemical hazards, but would appreciate further opportunities to discuss it before reaching a decision. They would also support the initiation of a new cycle of recurrent discussions, preferably on the strategic objective of social dialogue and tripartism. As to future agenda items, a general discussion on

decent work in the platform economy was the most appropriate, given the increase in atypical forms of work across the labour market. The EU and its Member States supported the first option for subparagraph (a) of the draft decision, but sought further clarification on the arrangements for the proposed preparatory technical conference, particularly with regard to funding, to allow for a decision on subparagraph (b). They supported subparagraph (c).

65. **Speaking on behalf of the Association of Southeast Asian Nations (ASEAN)**, a Government representative of Indonesia said that ASEAN aligned itself with the ASPAG statement. ASEAN Member States, which in 2021 had established the ASEAN Comprehensive Framework on the Care Economy, supported the inclusion of a general discussion of decent work and the care economy on the agenda of the 111th or 112th Session of the Conference. ASEAN had also renewed its commitment to global climate targets, but many ASEAN Member States' efforts to consider national long-term strategies and regional long-term visions for a just transition were at an early stage. The group could support either the second or third option for subparagraph (a) of the draft decision, and requested assistance from the Office to support its Member States in establishing policy frameworks for a just transition. As to occupational safety and health, ASEAN Member States had long recognized its importance and it supported the second option for subparagraph (b), considering the ILO's busy schedule of meetings in 2023. The group also supported subparagraph (c).
66. **A Government representative of Barbados** drew attention to the far-reaching impact of climate change, particularly on Barbados and its tourism industry. Climate change was an existential threat to all small island developing States, yet they had not contributed in any significant way to the degradation of the environment. He called on the world to recognize their desire to survive. He called on the ILO, as the multilateral entity founded on the principles of social justice, to recognize the urgent need to consider a just transition for vulnerable economies and their workers, and thus to schedule a general discussion on a just transition at the 111th Session (2023) of the Conference.
67. **A representative of the Director-General** (Director, International Labour Standards Department) expressed her appreciation for the guidance provided, which would be reflected in the document to be presented to the Governing Body at its 346th Session (October–November 2022). She noted that there was unanimous support for subparagraph (c) of the draft decision.
68. Concerning the proposed preparatory technical conference, she noted that Government members had requested more information on the financial implications before taking a position. As stated in paragraph 12 of Appendix II to document GB.344/INS/3/1, if the Governing Body decided to convene a preparatory technical conference, a detailed budget would be proposed at its 346th Session. Traditionally, such a conference would be funded from savings that arose under the ordinary budget (Part I), or failing that, through unforeseen expenditure (Part II) of the budget for the biennium concerned. She suggested that further discussion could take place in November 2022 on the basis of the additional information to be provided by the Office.
69. With respect to subparagraph (a), she noted that there was insufficient support for option 3 and that the Governing Body was divided between support for option 1 or option 2, indicating a need for further consultations. In addition, there was insufficient support for the scheduling of an evaluation of the impact of the Social Justice Declaration, as only the Employers' group had spoken in favour of it.
70. **The Worker spokesperson** noted that, while everyone considered a just transition an important and urgent issue, there was disagreement on whether it should be a standard-

setting item. In the interests of finding consensus, she suggested that, based on the Glasgow Climate Pact, which recognized the need for a just transition, technology transfer, financing, sustainable development and poverty reduction, the proposal on a just transition could be merged with that on harnessing the fullest potential of technology. The discussion would then include the key role of public investment and public services and the nine key areas previously identified by the 2015 ILO Guidelines, with a focus on industrial policy and technology and with a view to creating decent jobs, reducing inequality and providing for social and environmental justice. On that basis, the Workers could support the holding in 2023 of a general discussion on the combined topic of industrial policy and technology for a just transition.

71. With respect to subparagraph (b) of the draft decision, if a preparatory technical conference was to be held in 2023, a decision would have to be made at the current session. The issue of standard-setting on occupational safety and health would also be addressed in the discussion on the functioning of the SRM TWG, where there were clear recommendations and which the Governing Body had declared an institutional priority. Since it would not be possible to hold four double discussions on four different occupational safety and health instruments, particularly since some groups wished to hold only one standard-setting discussion at any session of the Conference, a way forward should be found, particularly for instruments that might not require a double discussion, balancing the need to update them and the need to have specific expertise. She sought more information on the format and financing of option 1, which would combine a technical preparatory conference with a single discussion at the Conference.
72. **The Employer spokesperson** observed that she had heard a large majority support option 2 for subparagraph (a): a general discussion on a just transition in 2023 and on the care economy in 2024. She welcomed the consensus-seeking proposal from the Workers' group on combining a just transition and harnessing technology, but would need to consult with her group on it and discuss a potential change in the title. Furthermore, she suggested that the Governing Body members should be given an opportunity to consider fully the proposal to carry out an evaluation of the impact of the Social Justice Declaration.
73. **The Worker spokesperson** clarified that, since the previous session, the Workers' group had not changed its position that there was no need for an evaluation of the impact of the Declaration and remained in favour of continuing the cycle of recurrent discussions.
74. **Speaking on behalf of IMEC**, a Government representative of Sweden said that he welcomed the potential flexibility offered by a preparatory technical conference, but given the cost, a lesser scope than that of a full Conference committee should be discussed.
75. **The representative of the Director-General** (Director, International Labour Standards Department) said that the Office would facilitate consultations during the session on the Workers' group's proposal to have a general discussion on a just transition combined with industrial policies and technology, and would provide more information on options for a preparatory technical conference on the consolidation of instruments on chemical hazards, with a view to finding a draft decision that would achieve consensus.
76. **Speaking on behalf of the EU and its Member States**, a Government representative of France expressed a preference for a standard-setting discussion on a just transition, but the group would need to consult prior to further discussion in the Governing Body. More information on the financial implications of a preparatory technical conference on chemical hazards would be needed before she could express an opinion on that matter.

- 77. The Employer spokesperson** noted that discussions on the occupational safety and health items had to be inclusive because of their complex nature, which was why the Employers' group preferred a two-year cycle for each of those topics, rather than preparatory technical conferences, which would involve substantial additional costs for governments.

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

- 78.** The Governing Body had before it a revised draft decision, which had been prepared and circulated by the Office following consultations, and which read:

The Governing Body decided:

- (1) with respect to the agenda of the 111th (2023) and 112th (2024) Session of the Conference:
 - (a) to place on the agenda of the 111th Session of the Conference (2023), for a general discussion, an item on a just transition, including consideration of industrial policies and technology, towards environmentally sustainable economies and societies for all; and
 - (b) to place on the agenda of the 112th Session of the Conference (2024), for a general discussion, an item on decent work and the care economy;
- (2) with respect to standard-setting on occupational safety and health,

OPTION 1 – to request the Office to present to the 345th Session of the Governing Body (June 2022) proposals, including a budget estimate and arrangements as appropriate, in respect of a possible preparatory technical Conference on the consolidation of instruments on chemical hazards in 2023 with a view to proposing a consolidated instrument to the 114th Session (2026) of the Conference for a single discussion;

OPTION 2 – to request the Office to present to the 345th Session of the Governing Body (June 2022) proposals, including a budget estimate and arrangements as appropriate, in respect of a possible technical meeting on the consolidation of instruments on chemical hazards in 2023 with a view to proposing a consolidated instrument to the 114th Session (2026) of the Conference for a single discussion;

OPTION 3 – to place on the agenda of the 114th and 115th Session of the Conference (2026–2027) an item on the consolidation of instruments on chemical hazards on the basis of a double discussion;
- (3) with respect to the agenda of future sessions of the Conference:
 - (a) to place on the agenda of the 110th Session (2022) of the Conference the approval of amendments to the Code of the Maritime Labour Convention, 2006 subject to the adoption of any amendments by the Special Tripartite Committee of the Maritime Labour Convention, 2006 at the second part of its meeting to be convened in May 2022; and
 - (b) to request the Office to take into account the guidance provided in preparing a document concerning a possible evaluation of the Social Justice for a Fair Globalization Declaration (2008) for the 346th Session (November 2022) of the Governing Body.

- 79. The Employer spokesperson** said that it was timely for the ILO to lead engagement in the multilateral system on issues related to the item on a just transition of the world of work towards environmentally sustainable economies and societies for all and provide support to its constituents on the basis of a strong mandate to be given by the International Labour Conference. Her group therefore supported the inclusion of the item in the draft decision. The item on harnessing the fullest potential of technology should remain on the list of potential Conference discussions as, being broader than climate change-related policy, it still required a dedicated Conference discussion.

80. Regarding the standard-setting item on the consolidation of instruments concerning chemical hazards, her group supported option 3 of the revised draft decision, which was consistent with past decisions of the Governing Body to implement the recommendations of the SRM TWG. Given the lack of consensus and Governments' need for details on the cost implications, the decision should be postponed further to provide time to take an informed decision in light of additional information from the Office.
81. With respect to the item on the evaluation of the impact of Social Justice Declaration, the Declaration clearly set out the evaluation which should be performed to review actions taken by the Governing Body and the Office to implement the Declaration, and the possible impact in relation to other interested international organizations. More than 17 years after its adoption, it was timely to undertake a second evaluation of the Declaration at the 113th Session (2025) of the Conference, and her group supported its inclusion in the draft decision. Noting that the first evaluation had been carried out in 2016 in a dedicated Conference committee, the Office should provide further information in November 2022 on the format of the forthcoming evaluation.
82. **The Worker spokesperson**, commending the Committee of Experts on the Application of Conventions and Recommendations on the recent publication of its report on *Securing decent work for nursing personnel and domestic workers, key actors in the care economy*, said that certain members of her group had been disappointed that the issue of the care economy would not be addressed at the Conference in 2023. She welcomed the broader scope that had been given to the item on a just transition of the world of work towards environmentally sustainable economies and societies for all, which should be placed in the context of industrial policy and technology. It was important to focus on the discussion on a just transition before determining whether a further discussion on technology and industrial policy should be held subsequently.
83. With regard to the information on elements for a possible preparatory technical conference on the consolidation of instruments on chemical hazards, the work of that conference would focus on updating existing standards which the SRM TWG considered outdated and in need of review. It would be appropriate to address such a standard-setting activity in a proactive and innovative fashion, likely with the development of a Protocol in the context of a preparatory technical conference. That approach did not imply that future discussions on new instruments would necessarily take the same format. A double discussion was unwise in order to prevent the updating of instruments in line with SRM TWG recommendations causing a backlog of work in the ILO standard-setting system. Her group could not agree to a technical meeting in place of a preparatory technical conference because the format of such a meeting would only allow for a very limited presence of workers' and employers' representatives. The arguments against a preparatory conference seemed to be mainly of a financial nature. Her group therefore proposed that the Office might develop the notion of a preparatory technical conference, with reduced numbers compared to a normal conference sitting. It would be appropriate to count 40 to 50 experts to represent the workers and provide for a broad range of expertise on chemical hazards from the various regions of the world. Such a format would also limit the financial scope of the conference, while preserving the need for broad participation from experts from the three constituents.
84. Her group could not agree with placing the evaluation of the impact of the Social Justice Declaration under the agenda of future sessions of the Conference but could accept the possibility of further discussions on ways to approach a possible evaluation. On that understanding, she supported those points of the draft decision.

- 85. Speaking on behalf of ASPAG**, a Government representative of Australia endorsed subparagraphs 1(a) and (b) of the draft decision regarding the agenda of the 111th and 112th Sessions of the Conference. Concerning standard-setting on occupational safety and health and the consolidation of instruments on chemical hazards, ASPAG remained flexible on the modality of the discussion in line with the consensus view of the Governing Body. If an option requiring a preparatory technical meeting or conference were agreed, sufficiently broad tripartite participation should be made possible, given the complexity and importance of the discussion. If options 1 or 2 were agreed by consensus, ASPAG would support the proposal to include a budget estimate and arrangements as appropriate. Regarding future sessions of the Conference, ASPAG supported subparagraph 3(a) and (b) of the draft decision.
- 86. Speaking on behalf of GRULAC**, a Government representative of Chile expressed support for subparagraph (1)(a) and (b) of the draft decision, namely to place on the agenda of the 111th Session (2023) of the Conference an item on a just transition for a general discussion, and to place on the agenda of the 112th Session (2024) of the Conference an item on decent work and the care economy for a general discussion. Concerning standard-setting on occupational safety and health and the consolidation of instruments on chemical hazards, GRULAC's preference would be for option 3.
- 87. Speaking on behalf of IMEC**, a Government representative of the United Kingdom deeply regretted the lack of support for standard-setting on a just transition. A general discussion on a just transition at the 111th Session of the Conference would nonetheless add value to the work already carried out by the ILO. Her group could support the proposal for the discussion to include the question of how industrial policies and technological change could contribute to a just transition. The discussion should cover all aspects of the ILO Guidelines for a just transition towards environmentally sustainable economies and societies for all. She supported the proposed title of the general discussion. With regard to standard-setting on chemical hazards, IMEC had been seeking to establish a solution which would expedite the process of consensus on the items concerning standard-setting on occupational safety and health proposed by the SRM TWG, and which would be efficient and cost-effective. IMEC would prefer the option of a preparatory technical meeting with a wider participation than usual, which would be much simpler and more flexible and cost-effective than a technical conference. She requested the Office to provide information on who would fund participants in a technical conference and whether it would be necessary to participate as tripartite delegations. It would be useful to know whether voting rights would be affected if delegations were not tripartite, and what the composition requirements for delegations would be if they had to be tripartite.
- 88. Speaking on behalf of the EU and its Member States**, a Government representative of France said that his group aligned itself with the statement made on behalf of IMEC. It was deeply regrettable that the Governing Body could not agree to a discussion on a just transition, despite the almost universal call of all constituents for increased ILO engagement in that area. While in the spirit of compromise his group could agree to hold a general discussion on the item in 2023, it believed that the situation represented a missed opportunity at a time when the impact of the climate crisis was becoming increasingly prevalent. Concerning the instruments on chemical hazards, the EU and its Member States could accept a preparatory technical conference, convened on an exceptional basis, which allowed for broader participation, and which met the requirements of flexibility and cost-effectiveness. He supported the draft decision as proposed, with the options that he had outlined.
- 89. The representative of the Director-General** (Director, International Labour Standards Department) said that, to her understanding, subparagraph (1)(a) and (b) as well as subparagraph (3)(a) and (b) of the draft decision received wide support. Summarizing the

discussion on the proposals concerning the standard-setting on occupational safety and health and the consolidation of instruments on chemical hazards, she indicated that option 1 had received support from the Workers with the qualification that they would accept limited participation in a preparatory technical conference. ASPAG had said that it would be flexible, and the EU and its Member States had informed the Governing Body that they could exceptionally accept a preparatory technical conference. Option 2 had received support from IMEC and the EU and its Members States, and ASPAG had indicated its flexibility. Regarding option 3, GRULAC had stated a clear preference and the Employers' group had said that they could support it, but had proposed that the decision on that item be postponed given the lack of consensus and Governments' need for details on the cost implications. She requested the Governing Body members to confirm that her summary reflected the positions expressed. In response to the questions raised, she said that the composition of the preparatory technical conference would be 1:1:1, and that the Office would bear the cost of transportation and subsistence of employer's and worker's representatives in a technical meeting.

90. **The Employer spokesperson** confirmed that her group supported option 3. She proposed that the decision be deferred until the next Governing Body session with a view to obtaining greater clarity on the substantive matters.
91. **The Worker spokesperson** said that whatever option was chosen, it should allow for broad participation. She wished to know whether it was possible for the Office to explore the option of a preparatory technical conference sitting with reduced numbers. Her group would prefer such a conference over a technical meeting, in order to avoid inventing new formats without clear standing orders or other procedural guarantees. The Workers were therefore not in favour of option 2. Regarding the consolidation of instruments on chemical hazards, the combination of a preparatory technical conference and a single discussion would provide an opportunity to try an innovative approach and to see if it could work in similar situations in the future. Clarification on the possibility of postponing the adoption of the draft decision would be welcome.
92. **Speaking on behalf of IMEC**, a Government representative of the United Kingdom asked the Office once again to confirm whether delegations participating in a technical conference would need to be tripartite, and if not, whether their voting rights would be affected.
93. **A representative of the Director-General** (Legal Adviser) said that, in accordance with the Standing Orders of the Governing Body, technical conferences should be tripartite. The matter of the voting rights and the implications of incomplete delegations would depend on the special standing orders specifically drafted for the preparatory conference in question.
94. **The Worker spokesperson** said that her group could be flexible in terms of the tripartite nature of a preparatory technical conference. If the concerns of IMEC regarding financial implications were accommodated, the Workers would be ready to accept reduced numbers. She requested clarification on how a preparatory technical conference with reduced participation would work.
95. **The Employer spokesperson** requested the Office to provide clarification on the difference between a technical preparatory conference and a first sitting at an International Labour Conference session, and on the participation rights for delegations.

Decision

96. The Governing Body decided:

- (a) with respect to the agenda of the 111th (2023) and 112th (2024) Sessions of the Conference:
 - (i) to place on the agenda of the 111th Session (2023), for a general discussion, an item on a just transition, including consideration of industrial policies and technology, towards environmentally sustainable economies and societies for all; and
 - (ii) to place on the agenda of the 112th Session (2024) an item on decent work and the care economy for a general discussion;
- (b) with respect to standard-setting on occupational safety and health, to request the Office to present to the Governing Body at its 346th Session (November 2022) further developed proposals based on its guidance, on the consolidation of instruments on chemical hazards; and
- (c) with respect to the agenda of future sessions of the Conference:
 - (i) to place on the agenda of the 110th Session (2022) the approval of amendments to the Code of the Maritime Labour Convention, 2006, subject to the adoption of any amendments by the Special Tripartite Committee of the Maritime Labour Convention, 2006 at the second part of its fourth meeting to be convened in May 2022; and
 - (ii) to request the Office to take into account the guidance provided in preparing a document concerning a possible evaluation of the ILO Declaration on Social Justice for a Fair Globalization (2008) for the 346th Session (November 2022) of the Governing Body.

(GB.344/INS/3/1, paragraph 36, as amended by the Governing Body)

3.2. Arrangements for the 110th Session of the Conference (2022) (GB.344/INS/3/2)

97. **The Worker spokesperson**, while thanking the Office for its efforts to find alternative solutions for the 110th Session of the Conference, said that the process had been cumbersome due to the difficulty in obtaining clear information and the obligation to work to very short deadlines. It was important to conduct the 2022 session in a format that was as close as possible to a regular session, with the physical presence of all three groups in Geneva. The delay in the renovations at the Palais des Nations, which made several rooms allocated to the ILO unavailable and which significantly reduced the overall seating capacity, was regrettable. Confirmation by the Office of the availability of rooms XXI and XXVI at the Palais would be welcome. The Workers supported the proposal to maintain the possibility for remote participation, though it was important to work according to normal Geneva working hours. Her group needed to hold preparatory meetings prior to the opening sitting of the Conference session in order to decide on its Officers. The Workers would have preferred to hold those meetings in person but understood that they would still have to be held virtually. However, her group needed to hold in-person meetings on 29 May. It was important to ensure that Workers' delegates could arrive in Geneva in time to attend those meetings.

98. Committees such as the Standard-Setting Committee on Apprenticeships and the Committee on the Application of Standards needed to have the flexibility to be able to call for extra sittings if required. The discussion on occupational safety and health should take place in the General Affairs Committee, the sessions of which should be held in person. She requested the Office to clarify whether the meetings of the General Affairs Committee could take place in rooms V or IX at ILO headquarters. It was also vital for groups to meet in person prior to the plenary sittings, given the delicate negotiations that would take place. Holding consultations prior to the Conference session did not necessarily mean that agreement would be reached on all the pending issues.
99. The largest rooms at the Palais should be allocated to the Committee on the Application of Standards and the Standard-Setting Committee on Apprenticeships. A ratio of 1:1:1 for Governments, Workers and Employers should be maintained, as had always been the case in general and technical committees. If another solution was not possible, two technical committees would have rooms with limited capacity. Since delegates were assigned to the various technical committees on the basis of their expertise, it was important for countries to nominate full tripartite delegations, consisting of one delegate and technical advisors. The groups could then agree that, while everyone could participate in group meetings, a rotation to be independently decided by each group could be implemented for committee plenaries.
100. Regarding arrangements for the Committee on the Application of Standards, the normal practice of having a discussion of 24 cases should be reinstated. Flexibility in the number and duration of sittings would have to be maintained, including the possibility of holding a sitting on 10 June in parallel to the World of Work Summit. She reiterated the need for adequate rooms for the Workers' group, the Bureau for Workers' Activities (ACTRAV) and Workers' group secretariat officers. A shuttle bus to run between the ILO and the Palais would also be needed, including the possibility of transport after hours, if required. ACTRAV and the Workers' group secretariat should be consulted in the lead-up to the Conference session. She supported the draft decision.
101. **The Employer spokesperson** said that his group had hoped that the United Nations Office at Geneva would have better anticipated the delays in the renovation work rather than presenting the ILO and its constituents with a *fait accompli*. He requested the Office to confirm whether such delays would also affect the 111th Session of the Conference and whether there would be even fewer meeting rooms potentially available. If such capacity constraints were scheduled to prevail again in 2023, it would be essential for the Governing Body to agree on a realistic scenario before its 346th Session at the latest. The Office should present concrete proposals and solutions to inform such discussions.
102. The 110th Session should allow all tripartite delegations to be present in Geneva if they decided to travel. The autonomy of the social partners needed to be preserved and respected, and the Employers' and Workers' delegations should have the same possibility to travel to Geneva, with guaranteed access to the rooms if they attended in person. To reduce the number of persons present in Geneva, priority in physical accreditation should be given to the designated delegates and advisors of the tripartite delegations, with only remote access granted for representatives of non-governmental and other organizations. Seats should be allocated on the basis of a 1:1:1 ratio, which meant that the main delegate of each delegation should only be accompanied by one technical adviser for items for which full physical participation was not possible. Two rooms that allowed for full physical participation should be allocated to the Standard-Setting Committee on Apprenticeships and the Committee on the Application of Standards, for which delegates should be able to nominate two advisers. The remaining rooms should be allocated first to the Recurrent Discussion Committee and then to the General

Discussion Committee. The Office should ensure that a room with sufficient capacity for all delegates was made available for the General Discussion Committee. The first Employers' group meeting should be held on the afternoon of 29 May, with the full group attending in person. The Office should remind governments of their responsibility to facilitate the participation of the Employers' and Workers' groups. Group preparatory meetings for the committees should be held on 30 May. The adoption of the Committee's reports should be advanced to 10 June, in line with the format of previous Conference sessions. He supported the draft decision.

103. **Speaking on behalf of the Africa group**, a Government representative of Nigeria welcomed the proposal to finalize the arrangements for the 110th Session of the International Labour Conference after tripartite consultations in April 2022. The proposed format was not without its challenges, as placing restrictions on the maximum number of delegates and their participation in the various committees would have an impact on the Conference's outcomes. The number of items on the agenda should therefore be reduced to enable delegations to engage in full, constructive discussions on the items selected. She recalled that at the outset of the pandemic her group had requested support to be provided to any constituents requiring technical assistance with internet connectivity issues.
104. Member States wishing to speak at the plenary on the reports of the Chairperson of the Governing Body and the Director-General should be allowed a maximum of five minutes to ensure sufficient time for robust discussion. To compensate, side events should be limited, with the exception of the World of Work Summit and an event celebrating the World Day against Child Labour. Her group remained flexible regarding the limit on the size of national delegations, since COVID-19 pandemic restrictions imposed nearer the time could influence the arrangements. She requested the Office to clarify when a decision would be taken on the establishment of a committee on the inclusion of safe and healthy working conditions in the ILO's framework of fundamental principles and rights at work. She supported the draft decision.
105. **Speaking on behalf of GRULAC**, a Government representative of Chile said that the 110th Session of the International Labour Conference would be a landmark in the ILO's history as it would entail a return to the traditional in-person format and take place with the new Director-General elect at the head of the Organization. GRULAC supported the proposed format of the Conference session and the proposals to hold the opening sitting and all plenary sittings in a virtual format. The Office should ensure that all constituents could participate on an equal footing, in particular with respect to their access to the Zoom videoconferencing platform.
106. He noted with concern that the full in-person participation of delegations in the various meetings could be hindered by limitations on room capacity at the Palais des Nations and ILO premises. His group would therefore favour any approach that would allow Members the greatest flexibility and discretion in their selection of delegates. Highlighting the challenge of accommodating the various committees in the limited number of rooms available, he said that equal treatment should be given to all committees when deciding on their format. In that connection, he requested further information on the additional material, human and financial resources that would be required if a fifth committee were to be established. The Office should seek creative ways to ensure that all committees could meet in person, with the option of remote access. His group supported the draft decision.
107. **Speaking on behalf of IMEC**, a Government representative of Canada expressed appreciation for the Office's flexibility regarding the possibility of reverting to a largely virtual format given

the ongoing uncertainty arising from the COVID-19 pandemic, differences in national circumstances and the importance of full and equal tripartite participation in the International Labour Conference. She supported the proposed format and said that the experience gained through hybrid meetings provided a solid basis for the practical arrangements. However, in its organization process the Office should be mindful of the challenges experienced by delegates participating remotely from other time zones. Her group stood ready to help delegates in regions outside Europe to participate fully in the Conference session.

108. She expressed agreement with the proposed arrangements for the plenary sittings, including the virtual format of the opening sitting. Her group was of the view that the inclusion of safe and healthy working conditions in the ILO's framework of fundamental principles and rights at work should be discussed in the General Affairs Committee rather than a dedicated committee. While all committees were important and should be treated equally, in the light of the constraints on room capacity, the Committee on the Application of Standards and the Standard-Setting Committee on Apprenticeships could be allocated larger rooms to enable them to fulfil their respective mandates. Her group supported the draft decision.
109. **Speaking on behalf of the EU and its Member States**, a Government representative of France said that North Macedonia, Montenegro, Serbia, Albania, Iceland, Norway, the Republic of Moldova and Georgia aligned themselves with her statement. She expressed support for the proposed format since it provided an opportunity for in-person and remote participation and granted the flexibility to adapt the arrangements at no significant additional cost should the COVID-19 pandemic situation deteriorate. She recognized the efforts made by the Office over the previous two years to ensure business continuity and facilitate robust engagement at sessions of the Conference and the Governing Body despite the challenging circumstances. The EU and its Member States supported the draft decision.
110. **A representative of the Director-General** (Director, Official Meetings, Documents and Relations Department) expressed his appreciation for the constructive spirit of the discussion. The United Nations Office at Geneva (UNOG) had recently confirmed that, from 4 April, the conference facilities at the Palais des Nations would be made available at their maximum seating capacity. The Office estimates that it will be possible to hold three committees on those premises. On the question of the availability of rooms at the Palais, rooms XXI and XXVI are indeed available. At ILO the temporary room A, currently used for the Governing Body meeting is available as well as large rooms such as room V and room IX.
111. Responding to specific questions regarding the arrangements for the 110th Session of the International Labour Conference, he said that the Office had proposed to hold the opening sitting in virtual format on 27 May to allow the committees to begin their substantive work on Monday the 30th and that in-person group meetings could be facilitated on 28 and 29 May as needed. The Office would provide full access to the Zoom platform to ensure equality of participation and would work to overcome the restrictions on the use of Zoom in some countries. The Office would consider shortening the break between the morning and afternoon sittings to ensure that afternoon sittings would not run on too late. He suggested discussing that matter, as well as speaking times, in the forthcoming tripartite consultations. A draft document on the special arrangements for the session would be circulated among constituents in advance of those consultations. On the question of organizing an additional fifth committee, it would cost around US\$700,000, the bulk of which would be attributed to translation and interpreting services.
112. Looking ahead to 2023, he said that UNOG had confirmed that while the Assembly Hall would be available once again, the large meeting rooms used for committees in building E would be

closed. The Office had already begun to work on options for the 111th Session of the Conference and would share possible modalities with the Governing Body in due course.

Decision

113. The Governing Body:

- (a) **decided that the 110th Session of the International Labour Conference should be held from Friday, 27 May to Saturday, 11 June 2022 in the format set out in document GB.344/INS/3/2, with the opening sitting on 27 May to be conducted in a fully virtual format;**
- (b) **instructed the Director-General to convene tripartite consultations in the week of 4 April 2022 to finalize the outstanding operational arrangements for the Conference session, in accordance with the guidance provided during its discussion; and**
- (c) **requested the Director-General to monitor closely the evolution of the COVID 19 pandemic and to present any modifications to the proposed format that might be required in the event of a serious deterioration of the situation.**

(GB.344/INS/3/2, paragraph 27)

4. Review of annual reports under the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work (GB.344/INS/4(Rev.1))

- 114. The Worker spokesperson** said that while the number of reports received during the reporting period had increased in comparison with 2019, more needed to be done to improve reporting rates, in particular with regard to 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). She encouraged Member States to fulfil their reporting obligations pursuant to the 1998 ILO Declaration on Fundamental Principles and Rights at Work (1998 Declaration), recalling that Conventions Nos 87 and 98 provided the basis for social dialogue. The Office should continue to provide technical assistance to bridge difficulties related to the submission of reports and overcome other barriers. She commended Governments for the four new ratifications of fundamental Conventions (Nos 29, 87 and 98) and the eight new ratifications of the Protocol of 2014 to the Forced Labour Convention, 1930 (No. 29), which had reached and exceeded the goal of the “50 for Freedom” campaign. The results of that campaign and the campaign for universal ratification of the Worst Forms of Child Labour Convention, 1999 (No. 182) highlighted the usefulness of such campaigns if sufficient resources were allocated to them. She noted that 110 ratifications by 40 Member States were still required to attain the goal of universal ratification of all fundamental Conventions.
- 115.** With regard to freedom of association and collective bargaining, her group once again deplored the fact that Conventions Nos 87 and 98 were the least ratified of the fundamental Conventions. It was regrettable that several Member States had indicated that ratification of those Conventions was unlikely, and that the Government of the United States of America had not indicated its intention concerning ratification. While her group welcomed the indication by several Member States that ratification of those Conventions was likely, the lack of progress was disappointing. The ratification rate in the regions of Asia and the Pacific and the Arab States was regrettable, in particular since ratification was a regional priority. Her group encouraged the Office to include the ratification of the fundamental Conventions on the agenda of the 17th Asia and the Pacific Regional Meeting to be held in 2022.

116. In respect of other fundamental principles and rights, her group welcomed the reported indications of likely ratification of Convention No. 29 and the 2014 Protocol, the Equal Remuneration Convention, 1951 (No. 100), the Abolition of Forced Labour Convention, 1957 (No. 105), the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), and the Minimum Age Convention, 1973 (No. 138). However, the poor prospects for the ratification of the Conventions relating to discrimination in respect of employment and occupation were regrettable. Strengthening implementation of the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), would ensure that social dialogue formed a solid basis for the future ratification of ILO Conventions; she therefore invited the Office to promote its ratification and support Member States in its implementation.
117. She welcomed the inclusion in the document of information regarding the Office's development cooperation projects, but noted that the projects did not address the four fundamental principles and rights on an equal basis, despite a comprehensive strategy for their integration. In view of the small number of projects concerning freedom of association, collective bargaining and discrimination in respect of employment and occupation, she called on the Office to strengthen its efforts to better promote social dialogue and mobilize resources, and thus improve the coverage of its development cooperation projects in those areas, in accordance with the ILO Centenary Declaration for the Future of Work and the 2017 Conference resolution concerning the second recurrent discussion on fundamental principles and rights at work. The Office should also increase the allocation from the regular budget for that work in the next biennium. She encouraged regional and national offices to redouble their efforts to promote the ratification and application of the fundamental Conventions. Furthermore, she asked the Office to clarify how the Better Work programme had strengthened collective bargaining, recalling that workplace cooperation should never replace that fundamental right.
118. She expressed the hope that significant progress would be made prior to the next recurrent discussion on the strategic objective of fundamental principles and rights at work in 2024. Her group supported the draft decision.
119. **The Employer spokesperson** said that his group fully supported the 1998 Declaration and its follow-up mechanism. However, the objective of the Declaration remained aspirational. Member States that had ratified the fundamental Conventions, and those that had not, needed to make more determined efforts to give effect to the fundamental principles and rights at work. The purpose of the follow-up mechanism was to identify areas in which the Office could help Member States in that regard; the annual review helped to determine actions to be taken by Member States and the ILO and should be improved to include additional analyses showing progress, set-backs, contemporary situations and opportunities for technical and programmatic work.
120. The statistics concerning ratification of the fundamental Conventions, the intention to ratify them and the corresponding reporting rates did not reflect the efforts made to give effect to the principles and rights by Member States that had not yet ratified all the fundamental Conventions. Issues relating to the ratification of those Conventions were different from those relating to their application. Furthermore, the rate of ratification did not necessarily reflect the promotion of the principles and rights enshrined therein. Despite the universal ratification of Convention No. 182, evidence of increases in child and forced labour showed that ratification alone was insufficient. The ILO's objective should be to assist Member States in respecting, promoting and realizing the fundamental principles and rights at work. While the Office assessment was that many reports received were quite detailed, the annual report only contained tallies and lists of countries that had engaged in certain activities and identified

certain obstacles. More qualitative analysis would allow constituents to assess the effectiveness of ILO assistance, gauge political will, allow peer learning and identify best practices that could be replicated. He asked the Office to consider whether its working practices and survey tools could be adapted in order to obtain such an analysis. His group had been developing work in that area and was prepared to discuss its methodologies and findings with the Office. Employer and worker organizations had a key role to play in qualitative analysis, and reporting must be accessible for social partners and governments, including through the digitalization of the reporting procedure. The annual report and the survey tool should be considered as part of the ILO Strategy on knowledge and innovation.

121. Technical cooperation, capacity-building and legislation were crucial for the successful application and implementation of labour standards. His group agreed that technical assistance should be prioritized to realize the fundamental principles and rights at work at all levels and by all stakeholders, supported by the information garnered through the follow-up mechanism to the 1998 Declaration. His group supported the draft decision.
122. **Speaking on behalf of the Africa group**, a Government representative of Senegal took note of the positive progress made in all regions, despite the COVID-19 pandemic, regarding the promotion and implementation of the fundamental principles and rights at work, the ratification of fundamental Conventions and the reporting rate. Efforts to promote the universal implementation of all fundamental principles and rights at work should continue. It was encouraging that the ILO Centenary Ratification Campaign and the “50 for Freedom” campaign had led to significant progress, including 57 ratifications of the 2014 Protocol and an increase in the number of reports submitted as part of the annual review.
123. Although they were the least ratified fundamental Conventions, a majority of African Member States had ratified Conventions Nos 87 and 98, and the reporting rate had increased since 2019. All Member States in Africa had ratified Conventions Nos 29 and 105, and the reporting rate from other regions on these Conventions was considered acceptable. Significant progress had been made in the region to abolish child labour; Convention No. 182 had attained universal ratification, and only two African Member States had not ratified Convention No. 138. Moreover, the reporting rate had increased by more than 10 percentage points. Furthermore, progress had been made in the elimination of discrimination in respect of employment and occupation, and an increase in the reporting rate had also been noted in that regard.
124. Despite those positive results and the efforts undertaken, weaknesses persisted, particularly concerning barriers to the universal ratification of instruments related to the fundamental principles and rights at work. He reiterated the requests for technical assistance made by African Member States, which would build national capacities and support efforts to promote those principles and rights. Any technical assistance should take account of the particular characteristics of each country.
125. His group encouraged the ILO to replicate the recent ratification campaigns with the ultimate goal of universal ratification of all fundamental Conventions and supported the draft decision.
126. **Speaking on behalf of ASPAG**, a Government representative of the Islamic Republic of Iran recalled that the 1998 Declaration reaffirmed Member States’ commitment to respect, promote and realize the fundamental principles and rights. He welcomed the new online reporting system, which had significantly increased the reporting rates for the period under review. His group noted the universal ratification of Convention No. 182 and the ratifications of the 2014 Protocol beyond the 50 for freedom target, which were significant achievements. Recognizing the challenges facing Member States in relation to the ratification and implementation of Conventions Nos 87 and 98 mentioned in the annual review, he said that more must be done

to analyse those challenges in the legal and socio-economic context of each Member State. His group expressed the hope that the higher ratification rate of Convention No. 29 would also contribute to the eradication of child labour and encouraged Member States that had not ratified that Convention to do so. He recognized the commitment of Member States that had not ratified the fundamental Conventions to the realization of the fundamental principles and rights at work, and encouraged the Office to foster those commitments with a view to the eventual ratification of the Conventions. ASPAG supported the draft decision.

- 127. Speaking on behalf of IMEC**, a Government representative of Iceland noted the increased number of reports submitted; however, the global reporting rate of approximately 50 per cent was still low. In addition, she noted the recent ratifications of fundamental Conventions and the stated intention of 60 per cent of reporting States to ratify the 2014 Protocol. She noted the additional ratifications of Conventions Nos 29, 87 and 98, and that no new ratifications of Conventions Nos 100 and 111 had been registered during the reporting cycle. Welcoming the universal ratification of Convention No. 182, she recognized that 14 Member States had yet to ratify Convention No. 138. She acknowledged the positive information provided on legislative changes and activities to promote the implementation of the fundamental principles and rights at work and the ratification of the fundamental Conventions. She welcomed the new online reporting tool, which had been used by a majority of Member States. The Office should learn from any technical problems to improve future reporting. IMEC supported the draft decision, and encouraged the Office to continue providing technical cooperation to address the obstacles to ratification of the fundamental Conventions.
- 128. Speaking on behalf of the EU and its Member States**, a Government representative of France said that North Macedonia, Montenegro, Serbia, Albania, Iceland, Norway, Ukraine and the Republic of Moldova aligned themselves with the statement. The EU and its Member States aligned themselves with IMEC's statement. Welcoming the significant improvement in reporting rates, he said that despite some initial technical difficulties, the new online reporting tool would contribute to further improvements, especially from workers' and employers' organizations. The EU and its Member States remained concerned by the slow rate of ratification of the fundamental Conventions and encouraged further ratification efforts, alongside efforts to promote, respect and realize the fundamental principles and rights at work in countries whose governments had not yet ratified all of the fundamental Conventions.
- 129.** Commending the universal ratification of Convention No. 182, he emphasized the importance of its full implementation and the wider ratification of Convention No. 138 in order to eradicate child labour. Forced labour also remained a grave concern, exacerbated by the COVID-19 pandemic. Forced labour constituted a grave violation of human rights, and its eradication should be a priority for Member States, pursuant to their commitment under the 1998 Declaration. The ILO must intensify its efforts in that regard, including through the promotion of universal ratification and implementation of Convention No. 29 and the 2014 Protocol, and Convention No. 105. The EU's framework of multilateral relations prioritized efforts to implement those Conventions. Notwithstanding the success of the "50 for Freedom" campaign, he called on all Member States to ratify and implement the 2014 Protocol. He welcomed the ILO's partnerships in support of the fundamental principles and rights at work, which aimed to maximize results towards the elimination of child and forced labour.
- 130.** Despite recent ratifications of Conventions Nos 87 and 98, he expressed concern that those remained the least ratified fundamental Conventions. The protection of freedom of association and the right to collective bargaining were key to ensuring decent work and social justice and he welcomed the promotional activities and technical assistance provided, which should continue. He welcomed the upcoming update of the country baselines on the basis of the

annual reports and asked the Office to increase their visibility. The EU and its Member States supported the draft decision.

- 131. A Government representative of China**, referring to paragraph 34 of the document, said that his Government attached great importance to the ratification and implementation of labour-related Conventions, including Conventions Nos 29 and 105. It had been participating in long-term technical cooperation projects with the ILO and had undertaken related activities at the domestic level across Government ministries and with social partners. The preliminary work in preparation for the ratification of those two instruments had been completed and the relevant national procedures were being carried out. He thanked the Office for the long-term cooperation it had provided. He reiterated that his Government was against forced labour, which was prohibited and punishable by law; consultations had been held to ensure compliance with the relevant national legislation and regulations in all workplaces. The initiation of the ratification process for Conventions Nos 29 and 105 further reflected his Government's commitment to opposing forced labour and protecting workers' rights and interests.
- 132. A Government representative of Bangladesh** welcomed the ratification by 57 Member States, including her own, of the 2014 Protocol. Bangladesh would be handing over its instrument of ratification of Convention No. 138 in the next days. She requested the Office's support for her Government's efforts to eradicate the worst forms of child labour by 2025 and called on it to redouble its efforts to bring about the universal ratification of all fundamental Conventions of the ILO. She supported the draft decision.
- 133. A representative of the Director-General** (Deputy Director-General for Policy) underscored that the Office would continue to make every effort to mobilize additional budgetary resources to increase the number of development cooperation projects that promoted freedom of association and the right to collective bargaining, and she invited donors to support the Office in those efforts. Collective bargaining was one of the key principles underpinning the compliance assessment tool used in the Better Work programme; indeed, an evaluation of the programme's impact had indicated that factories with workplace cooperation committees demonstrated better compliance with legal requirements and collective agreements. The programme's monitoring of respect for freedom of association and collective bargaining also promoted a climate conducive to the enjoyment of those rights. The Office would seek to ensure that the programme's work on collective bargaining rights complemented other ILO activities in that area. The ILO's normative mission remained fundamental and served as an important basis for the Office's ongoing work. The success achieved with regard to Convention No. 182 demonstrated that universal ratification was possible.
- 134. The Worker spokesperson** recalled that the Better Work programme and the fundamental right to collective bargaining, although complementary, were distinct concepts.

Decision

135. The Governing Body:

- (a) **took note of the information presented in the Annual Review under the follow up to the ILO Declaration on Fundamental Principles and Rights at Work for the 2020–21 period;**
- (b) **invited the Office to continue its support to Member States to ensure timely reporting on all unratified fundamental Conventions and the Protocol of 2014 to the Forced Labour Convention, 1930, and to keep providing technical assistance to**

address obstacles to ratification and realization of the fundamental principles and rights at work; and

- (c) reiterated its support for the mobilization of resources with a view to further assisting Member States in their efforts to respect, promote and realize fundamental principles and rights at work, including through universal ratification of all fundamental Conventions and the Protocol of 2014 to the Forced Labour Convention, 1930.**

(GB.344/INS/4(Rev.1), paragraph 115)

5. Work plan on the strengthening of the supervisory system: Proposals on further steps to ensure legal certainty and information on other action points in the work plan (GB.344/INS/5)

- 136. The Employer spokesperson** said that it was necessary to further investigate possible practical solutions on the issue of legal certainty within the tripartite context to build consensus on the best way to proceed. Taking any decisions on the use of the options under article 37 of the ILO Constitution seemed premature. The Employers recognized the need for legal certainty regarding provisions of ILO Conventions; that required both legal clarity on the meaning of the terms and provisions of those Conventions and wide acceptance of a particular meaning of such terms and provisions. The question was how best to achieve legal certainty and to what extent the procedures under article 37 could contribute to it. The main issue of contention was the detailed rules on the right to strike developed by the Committee of Experts in its supervision of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87). The Employers did not consider that article 37 provided a viable way forward, as the right to strike was a multifaceted and complex issue that could not be separated from the widely diverging industrial relations systems and practices in ILO Member States. It was doubtful that recourse to the options under article 37 could achieve legal certainty, as it was unclear how external and judicial bodies could possibly develop a solution that would be widely accepted by ILO constituents on such a complex matter. Such a solution should remain in the hands of the Committee of Experts, the Office and the ILO's tripartite constituents. There was significant room for dialogue and cooperation among those stakeholders to move closer to consensus. Referral to external and judicial bodies, the International Court of Justice or an ILO tribunal should not occur unless all possibilities of dialogue between the main ILO actors competent with respect to ILO standards had been exhausted, which was not currently the case.
- 137.** Regarding the main features of the proceedings under article 37(1) to seek an advisory opinion from the International Court of Justice, she noted that although the rationale for the provision had perhaps been to give extra legitimacy and authority to advisory opinions, it was not clear from article 37(1) that such opinions were also legally binding. While the ILO had treated all six advisory opinions issued by the Permanent Court of International Justice as binding, that did not necessarily mean that the same decision would be made in a new case. The only decision issued by the Permanent Court of International Justice concerning the interpretation of an ILO Convention had been more than 100 years previously, on the Night Work (Women) Convention, 1919 (No. 4), which was much less complex than the question of the right to strike. The Employers' group contested the claim that the wording "shall be referred" in article 37(1) meant that International Court of Justice needed to be determined who decided whether a dispute was eligible for referral to the International Court of Justice. As the option of article 37(1) was intended to be a last resort, it could be argued that a dispute could be referred only when all

other options had been exhausted. The author of a question regarding the interpretation of a Convention obviously had the autonomy to decide unilaterally whether to refer the question to the International Court of Justice. However, the wording of article 37(1) could also mean that, if a decision to obtain an authoritative response had been made for a dispute or question concerning the interpretation of an ILO Convention, such a response could be obtained only from the International Court of Justice and not from any other dispute settlement institutions outside the UN system.

138. Concerning the proposed establishment of an ILO tribunal under article 37(2), she noted that there had never been a major effort to create such an institution. Furthermore, the majority of participants at the informal consultations in January 2020 had not supported the article 37(2) alternative. The purpose of such a tribunal was the expeditious determination of any dispute or question relating to the interpretation of a Convention, but that was possible only for specific questions of limited scope, not long-standing, complex and contentious issues such as the Committee of Experts' interpretation of the right to strike in Convention No. 87.
139. The Employers' group would have liked to have seen the option of tripartite consensus-based modalities addressed in greater depth in the document. They should be the first option to resolve diverging views on interpretation, and would maintain the competence of the tripartite constituents to determine the content of international labour standards. The purpose of a consensus-based option would not be to find a legally binding solution based on legal process, but a solution based on the authority arising from the support of a majority of the tripartite constituents. A dispute over a particular interpretation of an ILO Convention could be placed on the agenda of the International Labour Conference, which could decide to discuss the matter in a committee which would make a recommendation on the interpretation or on further action to address the issue. Another possibility would be to organize a process whereby constituents would be requested to provide their views in writing on a contentious interpretation, which would indicate the level of acceptance of the interpretation and help settle the dispute. The Committee of Experts should then take into account the outcomes of those processes in its future comments on Convention No. 87. If such options did not lead to a settlement, a final possibility could be to consider the initiation of a standard-setting process which could establish a Protocol to the respective Convention setting out the interpretation considered to be the appropriate one, which would have to receive a two-thirds majority of the International Labour Conference. Such a Protocol would become binding only for those countries that ratified it.
140. The Employers' group strongly supported social dialogue and a consensus-based option to resolve existing disputes and to prevent new ones. The tripartite constituents, the supervisory bodies and the Office had a shared responsibility and an essential role to play in ensuring legal certainty. The group had therefore submitted a proposal for an amended draft decision, to read:

The Governing Body decided to continue its discussion at its 346th Session (October–November 2022) and requested the Office to facilitate tripartite consultations with a view to preparing further proposals for finding consensus-based solutions under the existing procedures involving tripartite constituents, including an informal tripartite dialogue with the Committee of Experts.

141. **The Worker spokesperson** noted that, since 2012, the Employers' group had been challenging the long-standing authoritative interpretation of the ILO supervisory bodies that the right to strike was recognized and protected under Convention No. 87. There had been heated discussions and negotiations but the matter remained unsolved for the Employers' group. The current situation was no longer acceptable, as the ILO's credibility and its unique tripartite and

social justice mandate were at stake. The only way provided for in the ILO Constitution for the Organization to ensure legal certainty and decisive determinations in matters of interpretation of Conventions was through the application of article 37. That was essential for ratifying States and States considering ratifying a particular Convention. In the absence of authoritative and binding interpretations obtained through the ILO, other national, regional or international bodies would develop their own interpretation, which could lead to divergent interpretations and further legal uncertainty.

142. The ILO had resorted to the International Court of Justice on six occasions and its decisions had been readily implemented. As a matter of constitutional practice, the ILO had always considered the Court's advisory opinions to be binding. Document GB.344/INS/5 made it clear that article 37(1) placed a direct legal obligation on the ILO to refer any interpretation issue to the International Court of Justice. It would be for the Governing Body to decide to refer such issues. The only way to solve the persisting interpretation dispute concerning Convention No. 87 and the right to strike, in a manner that provided legal certainty and was in line with the ILO Constitution, was to refer it to the International Court of Justice.
143. Regarding the proposed establishment of a tribunal under article 37(2), her group was ready to explore the option, but would accept it only if a series of guarantees and conditions were met. Even if a tribunal were established, the advisory opinion issued by the International Court of Justice would be binding on that tribunal. The Workers' group agreed with the Employers' group that article 37(2) described situations where an expedited opinion on a more minor interpretation matter would be needed. The Workers' group strongly opposed the establishment of a tripartite tribunal; as a judicial organ, the tribunal must be composed of judges meeting high standards of legal expertise, integrity and impartiality. Nor did the group support the proposal to add final provisions in future Conventions on referral of any interpretation disputes to such a tribunal, as it would provide no solution to existing standards that did not include such a provision, and might lead to excessive recourse to the procedure. An ad hoc tribunal would be more appropriate than a permanent tribunal for serious situations of disagreement. The standing orders of the tribunal would have to make its purpose clear. Legitimate concerns existed on the impact of an ad hoc tribunal on the supervisory system and the unintended consequences if the procedure were used excessively. Her group required further clarification on allowing the Committee of Experts and the Committee on the Application of Standards to refer a question of interpretation to such a tribunal. The group had strong reservations about the suggestion to allow other international organizations to file requests for interpretation with any such tribunal. Under article 37(2) of the Constitution, any requests must be submitted to the Governing Body. Furthermore, it should only be possible for other judicial institutions to raise such questions. Regarding the other means of interpretation based on relevant international case law, the *travaux préparatoires* for Conventions and the reports of the supervisory bodies, further clarification was necessary on the potential impact on the mandate of the supervisory bodies.
144. The Workers' group supported the legal analysis in the document that consensus-based options could not provide legal certainty. There was a role for tripartite attempts to resolve outstanding issues of interpretation, both prior to the submission of a matter for interpretation to the International Court of Justice or a tribunal and as follow-up to an advisory opinion of the International Court of Justice or the award of a tribunal. However, it should be clear at the preliminary stage that if such attempts did not succeed, the dispute could be resolved only through one of the two mechanisms under article 37. Therefore, a time-bound procedure was needed to ensure that discussions did not continue indefinitely, thus creating a persistent situation of legal uncertainty. In the Workers' group's opinion, the ILO was currently in such a

situation, as many attempts had been made through tripartite discussions to reconcile views on the right to strike, but no solutions had been found, only a provisional agreement to disagree. The process had been extremely difficult and the Workers' group did not wish to repeat it or for it to persist any longer.

145. The Workers' group was categorically opposed to the suggestion that the ILO could adopt a new standard to address an interpretation dispute, as the same disagreement on interpretation would persist in the development of the new standard, thus preventing consensus. The example of the Forced Labour Convention, 1930 (No. 29), and its Protocol was not appropriate, as the Protocol updated the Convention and there had been no dispute over its interpretation. Resolving interpretation disputes required recourse to article 37 of the Constitution, not standard-setting.
146. The Workers' group therefore supported subparagraph (a) of the draft decision, on the referral of questions or disputes to the International Court of Justice, but wished to defer any discussions on subparagraph (b), concerning the implementation of article 37(2). In view of the importance and complexity of the matter, the Governing Body should return to the item at its 347th Session rather than its 346th Session, which would also give the new Director-General time to be seized of the matter. Her group could not support the amendment put forward by the Employers' group, which omitted any reference to article 37. The Workers' group firmly disagreed that an informal tripartite dialogue with the Committee of Experts should be considered as part of a consensus-based solution and that it could help address the dispute over the interpretation of the right to strike. There had already been such opportunities, which had not helped to solve the conflict. A dispute over the scope and meaning of provisions of Conventions was a legal question that required a legal answer through legal means to ensure legal certainty.
147. **Speaking on behalf of IMEC**, a Government representative of the United States agreed that article 37 of the ILO Constitution provided appropriate methods of seeking legal certainty with respect to an existing ILO instrument and that legal certainty on outstanding disputes was critical to the functioning and credibility of the ILO as an international standard-setting organization. The group agreed that there was only one pending interpretation dispute, concerning Convention No. 87, and sought confirmation from the social partners that that was also their understanding. Tripartite consensus-based modalities had thus far only generated temporary political consensus and could not provide the requisite legal certainty to ensure the effective and efficient functioning of the supervisory system. Efforts should therefore be made to seek a resolution under article 37 of the Constitution.
148. The option of recourse to the International Court of Justice under article 37(1) appeared to have merit. The interpretation dispute with respect to Convention No. 87 certainly had broader systemic implications for the exercise of the fundamental right to freedom of association. That exercise was necessary for full participation in the ILO. As such, the interpretation dispute on the right to strike was not of a meticulous character. Her group looked forward to engaging in a tripartite process on the formulation of a balanced question to be referred to the International Court of Justice and on the process for compiling the dossier. She welcomed the Office's assessment that all ILO constituents would likely be permitted to participate in the proceedings, and requested the Office to provide additional information on the time required to prepare for the submission of a request under article 37(1) and on the role of Member States and the social partners in the process. With respect to article 37(2), IMEC considered that the Office had outlined the appropriate considerations. If there was consensus to establish such a tribunal, it must be composed of expert judges, and its establishment would require significant

consultation with and concerted effort from all constituents. Her group could not support the amendment proposed by the Employers' group.

149. **Speaking on behalf of the EU and its Member States**, a Government representative of France said that Turkey, North Macedonia, Montenegro, Serbia, Albania, Iceland, Norway, Ukraine, the Republic of Moldova and Georgia aligned themselves with his statement. He observed that the long-standing divergence in opinions had generated uncertainty regarding the legal obligations assumed by governments upon the ratification of Conventions, which might reduce their willingness to ratify Conventions. In 2014, the European Union and its Member States had been prepared to support the option to seek an advisory opinion on the interpretation of Convention No. 87 from the International Court of Justice, and maintained the opinion that continued disputes on legal interpretation required recourse to the Court, an organ that had demonstrated its capability to fulfil such duties. While the tools of social dialogue, tripartite discussion and consensus-building had proven effective in resolving disputes on other matters, the situation concerning Convention No. 87 was not a permanent solution. The EU and its Member States stood ready to participate in identifying the most appropriate solution and supported the original draft decision.
150. **Speaking on behalf of the Africa group**, a Government representative of Morocco recalled that agreement had not been achieved despite lengthy discussions on the item at previous sessions and expressed the hope that a decision by consensus would soon be reached. The mechanisms under article 37 to guarantee legal certainty in interpreting ILO standards must be independent and operate in accordance with the principles of transparency, accountability and good governance. He welcomed the efforts made to ensure the settlement of interpretation disputes and called for further tripartite discussions to enable the constituents to examine the advantages and disadvantages of both of the options presented to the Governing Body. A cost-benefit analysis of each option would also help the constituents to make an informed decision. He supported the original draft decision.
151. **A Government representative of Colombia** said that Member States set great store by the recommendations of the ILO supervisory bodies. If the Governing Body were to consider the establishment of a tribunal under article 37(2) of the ILO Constitution, it would be essential to reflect on the potentially significant costs involved and the impact of such a tribunal on the work of the Committee of Experts, a body guided by the principles of independence, impartiality and objectivity and formed of members with first-hand experience of different legal, economic and social systems. Great care must be taken to avoid undermining the trust of the tripartite constituents and weakening the Committee of Experts. Since very few interpretation disputes had been referred to the International Court of Justice, the establishment of a tribunal for that sole purpose would be inappropriate. It was unclear whether such a tribunal would have other functions related to the ILO's mandate, concerning, for example, a country's acceptance or application of a procedure under article 26 of the ILO Constitution. Her Government was convinced that social dialogue could provide a path to consensus and therefore supported the amendment proposed by the Employers' group.
152. **A Government representative of Brazil** recalled that responsibility for adopting and supervising the application of standards rested primarily with tripartite constituents convened at the International Labour Conference. The text of instruments adopted, the relevant preparatory work and their interpretation by the tripartite constituents should therefore serve as the authoritative references to be considered in the application of standards, and interpretation disputes should be settled first and foremost through tripartite consultations. While the ILO Constitution provided for alternatives to that process, social dialogue had long

been the preferred method of dispute resolution at the ILO and no attempts should be made to block that process. He supported the amendment proposed by the Employers' group.

153. **A representative of the Director-General** (Legal Adviser) responding to a question by IMEC, said that it was difficult to estimate how long it would take to prepare for the submission of a request to the International Court of Justice under article 37(1) but suggested that between three and five months would be needed to prepare a dossier that would include details of the question, background information and potentially also the views of constituents. The dossier would need to be submitted to the International Court of Justice shortly after the session of the Governing Body at which a decision was made to refer the case to that organ. It was likely that employers' and workers' organizations would be allowed to participate in advisory proceedings before the Court on the basis of explanations provided in 2014 by its Registrar and also recent practice (for instance, the advisory proceedings on the *Legal Consequences of a Construction of a Wall in the Occupied Palestinian Territory* and the *Accordance with international law of the unilateral declaration of independence in respect of Kosovo*), which confirmed that the Court adopted a pragmatic approach and might invite entities other than intergovernmental organizations whenever it deemed it necessary. It should also be recalled that employers' and workers' organizations had been allowed to participate in the proceedings brought before the Permanent Court of International Justice.
154. **Another representative of the Director-General** (Director, International Labour Standards Department) clarified that a tribunal established under article 37(2) of the ILO Constitution would focus only on matters relating to the interpretation of Conventions and would not be called upon to address any other matters, including those arising from the acceptance or application of article 26.
155. **The Worker spokesperson** requested clarification from the Legal Adviser on whether the usage of the word "shall" in article 37(1) of the ILO Constitution conferred any obligation on the ILO. She reiterated the importance of social dialogue to her group, but said that there was nevertheless a need for a mechanism to settle interpretation disputes in cases where attempts at seeking consensus through social dialogue had not borne fruit. Her group continued to support the existing arrangements and considered that the call for further discussions on the item was no more than a delaying tactic. She maintained her group's support for the original draft decision.
156. **The Employer spokesperson** noted with satisfaction that a number of Governments had supported the social dialogue approach that she had outlined. There was clearly no disagreement that the principle of freedom of association included the right to strike; it was the exact detail of the international regulation of that right that was in question. The document presented by the Office described the multifaceted regulations that States had adopted to frame the right to strike. It should be acknowledged, however, that expertise guided by national experience or individual cases could not always be applied at the international level or in a different national context. The discussion that had led to the adoption of Convention No. 87 had explicitly rejected the inclusion of the notion of the international regulation of the right to strike in that text. It was not clear why the Workers did not want to have a global tripartite discussion on the issue.
157. In a spirit of compromise, she proposed a subamendment that would reinstate subparagraphs (a) and (b) of the original draft decision and include her group's original amendment as subparagraph (c). The draft decision would read:

~~The Governing Body, considering that settling disputes relating to the interpretation of international labour Conventions in accordance with article 37 of the ILO Constitution is~~

~~fundamental for the effective supervision of international labour standards~~, decided to continue its discussion at its 346th Session (October–November 2022) and requested the Office to facilitate tripartite consultations with a view to preparing:

- (a) proposals on a procedural framework for the referral of questions or disputes regarding the interpretation of international labour Conventions to the International Court of Justice for decision in accordance with article 37(1); ~~and~~
- (b) additional proposals for the implementation of article 37(2), taking into account the guidance of the Governing Body and the opinions expressed in the tripartite exchange of views; and
- (c) further proposals for finding consensus-based solutions under the existing procedures involving tripartite constituents, including an informal tripartite dialogue with the Committee of Experts.

- 158. The representative of the Director-General** (Legal Adviser), responding to the request of the Worker spokesperson for clarification of the true meaning of the wording used in article 37(1), said that the wording was clear and unambiguous. According to the customary law principles of interpretation reflected in Article 31 of the 1969 Vienna Convention on the Law of Treaties, texts must be interpreted in accordance with the ordinary meaning of the words used in their context and having regard to the object and purpose of the text. The words “any dispute shall be referred for decision” left no doubt as to the compulsory character of the judicial settlement of interpretation disputes. Moreover, article 37(1) was worded in unconditional terms; unlike the constitution of other organizations, such as the Food and Agriculture Organization of the United Nations (FAO) and the World Health Organization (WHO), article 37(1) did not qualify the requirement to refer any interpretation dispute to the International Court of Justice for decision, (for instance, “unless settled by negotiation or “if not settled by the Conference”), which meant that there was no other possible course of action for such disputes.
- 159. The Worker spokesperson** said that there was no doubt that an interpretation dispute existed and recalled that the Governing Body had a responsibility to fulfil a constitutional obligation to refer the dispute to the International Court of Justice. In that regard, it might be useful to gain clarity that it was the responsibility of the ILO supervisory system to establish the conditions on the right to strike. It was unclear why the Employers were so reluctant to refer the matter to the International Court of Justice. Her group was not prepared to accept any kind of informal further discussion. Several Government groups had supported the original draft decision, with a number of qualifiers about further discussion, in which the Employers could participate. The Workers stood ready to proceed on that basis.
- 160. The Employer spokesperson** reiterated that, in order to agree on consolidated principles at the global level, the initial focus must be the different situations at the national level, which could be addressed through discussion both among the countries and with the countries’ tripartite constituents. She called on participants to consider the draft decision as subamended, which would allow for an informal tripartite dialogue with the Committee of Experts as the next step.
- 161. The Worker spokesperson** said that her group did not accept the proposed subamendment and saw no need for informal tripartite dialogue with the Committee of Experts – which was an independent committee responsible for providing expertise on the application of Conventions.
- 162. The Employer spokesperson** reiterated that the dispute concerning interpretation was not a matter for the International Court of Justice. She recalled that the only discussion on the subject by the Conference had been in the run up to the adoption of Convention No. 87, which had led to the decision to exclude the right to strike from the regulatory part of the Convention.

The constituents should have the opportunity to discuss that decision and consider how things had evolved and the implications for regulation at the global level. That opportunity would be provided for in the tripartite dialogue proposed in her group's original amendment, which had been subamended to accommodate the wishes of those who wanted to refer to article 37 as well.

163. **Speaking on behalf of the EU and its Member States**, a Government representative of France questioned the proposal by the Employers' group to delete the reference to the ILO Constitution in the draft decision. Including the reference would add value and contribute to preventing future disputes. While the intention of the parties might be clear at the time of the adoption of a Convention, that clarity might be lost over the years. Using the procedures already provided for in the articles of the Constitution could allow the Governing Body to move forward and avoid the need to turn to a judge. The original draft decision was therefore a good proposal, since it provided time to consider different options.
164. **Speaking on behalf of IMEC**, a Government representative of the United States said that her group was not in a position to support the subamendment proposed by the Employers.
165. **The Worker spokesperson** clarified that, while she supported the original draft decision, her group would rather continue the discussion in March 2023, in order to allow the new Director-General time to settle into post prior to its resumption.
166. **The Chairperson** suggested that, since the majority had spoken in favour of the original draft decision, the Governing Body could adopt that version.
167. **The Employer spokesperson** said that her group could not support the draft decision as proposed by the Office. Her group's proposal to hold tripartite discussions on the issue had found support from Governments. It had proposed a compromise that would take on board both views and, also, included the elements that the Employers and a number of Governments considered important. Her group wished to have an informal tripartite dialogue with the Committee of Experts in order to find a solution on which there was consensus, in line with the Governing Body's mandate. In a spirit of compromise, her group was willing to agree to discuss article 37(1) and (2) of the ILO Constitution and to include a reference to the Constitution in the draft decision.
168. **The Worker spokesperson** said that, together with her group, several Government groups had supported the original draft decision with an amended date, while only two Government groups had supported the amendments proposed by the Employers' group. The view of the Governing Body was clear.
169. **The Chairperson** said that the Officers of the Governing Body had decided to move forward and discuss the issue again in March 2023.
170. **The Employer spokesperson** said that, since a new element had been introduced, the Employers were not in a position to conclude discussions during the current round. Another round of discussion would be needed.
171. **The Worker spokesperson** said that although she had originally proposed that the discussion should take place in March 2023, if the Governing Body could not agree to that, the Workers could agree to hold the discussion in November 2022.
172. **The Employer spokesperson** suggested that the discussion should be suspended with a view to seeking consensus on the draft decision and resuming discussion at a later stage.
173. **The Worker spokesperson** recalled that despite many beautiful words on consensus, there had been no consensus on the issue for ten years. It was clear that a majority wished to move

forward, which would mean further tripartite consultations and preparation; that was the decision that should be made.

(The discussion was adjourned.)

- 174. The Employer spokesperson** noted that there appeared to be support from Governments for her group's view that the draft decision should make reference to tripartite dialogue. Accordingly, referring to the original draft decision set out in paragraph 74 of the document, she proposed that subparagraph (b) could be amended to read: "additional proposals for the implementation of article 37(2) of the ILO Constitution" and that a new paragraph 75 could be inserted that would read: "The Governing Body requested the Office to also provide possible proposals for approaches to the resolution of divergences of views related to international labour standards within the ILO's tripartite structures within a reasonable time frame". A new paragraph 76 could also be added, with some wording taken from the original subparagraph (b), that would read: "The Office is requested to prepare proposals under paragraphs 74 and 75 taking into account the guidance of the Governing Body and the opinions expressed in the tripartite exchange of views".
- 175. The Worker spokesperson** welcomed the growing agreement surrounding paragraph 74. She reiterated her group's dedication to tripartism, social dialogue and consensus-seeking, but said that the Employers' proposed new paragraph 75 was overly broad, and indeed superfluous, given that the Governing Body had always sought to find tripartite solutions to the diverging views on international labour standards that had existed since the ILO's inception. Any reference to tripartism should be specifically in relation to the work plan on the strengthening of the supervisory system. Accordingly, she suggested that paragraph 75 could include wording along the lines of: "The Governing Body committed to continue its tripartite discussion on the further implementation of the work plan on the strengthening of the supervisory system". She recalled that the Governing Body had already made a commitment to that effect, in 2017, when it had adopted the revised work plan for the strengthening of the supervisory system.
- 176. The Employer spokesperson** noted with appreciation the flexibility demonstrated by the Workers' group in finding a way forward. She could agree to the wording that had been proposed by the Workers, if a reference to the work plan and to the diverging views could also be included.
- (The Governing Body resumed consideration of the item following a brief suspension of the sitting for consultations.)*
- 177. The Worker spokesperson**, referring to the original draft decision, proposed that paragraph 74 could be retained in its entirety, with the only change being to the date, and that a new paragraph could be added, that would read: "The Governing Body expressed its commitment to further implement the work plan on strengthening the supervisory system".
- 178. The Employer spokesperson** said that the new paragraph, as proposed by the Workers, did not include the main element that her group considered important. She proposed that the sentence should therefore be subamended to refer to international labour standards and the ILO's tripartite structures, and to reflect the views of the Governments on the need for a time frame. The paragraph would therefore read: "The Governing Body expressed its commitment to further implement the work plan on strengthening the supervisory system, including approaches to the resolution of divergences of views relating to international labour standards within the ILO's tripartite structures, within a reasonable time frame".

- 179. The Worker spokesperson** said that, if the Employers did not accept the wording of the new paragraph as proposed by her group, she would prefer not to add a new paragraph at all, and simply to retain the original text of paragraph 74. The Governments had indicated their support for the need for legal certainty, which in terms of divergence could be achieved only through the application of article 37. The subamendment to the new paragraph proposed by the Employers' group was not acceptable, as it would lead to more uncertainty and confusion. She reiterated that, as the Governing Body was a tripartite institution, any commitment it made was a tripartite commitment and there was no need to state that explicitly.
- 180. Government representatives of Brazil and Colombia** supported the new paragraph, as subamended by the Employers' group.
- 181. A Government representative of Japan** suggested that only the parts of the Employers' subamendment that were included in the work plan should be retained.
- 182. A Government representative of the United States** proposed a further subamendment to the new paragraph, so that it would read: "The Governing Body expressed its commitment to strengthening the supervisory system, including through tripartite social dialogue".
- 183. A Government representative of Argentina** said that the most appropriate way forward would be to adopt the new paragraph as proposed by the Workers' group.
- 184. Speaking on behalf of the EU and its Member States**, a Government representative of France said that she supported the new paragraph as proposed by the Workers' group. She could not accept the subamendment proposed by the Employers' group, as all disputes relating to ILO Conventions should be governed by article 37 of the ILO Constitution. She asked for more time to consider the subamendment proposed by the representative of the United States.
- 185. The Worker spokesperson** clarified that the work plan, which was a work plan on the strengthening of the supervisory system, did not include the issues addressed by the Employers' subamendment. Those new issues would further confuse a debate in which her group was seeking clarity and legal certainty. The subamendment proposed by the representative of the United States would also broaden the paragraph. She advised against entering a broader discussion on the strengthening of the supervisory system in general terms. She maintained her support for the new paragraph as proposed by her group, and could not agree to include any other language in that paragraph.
- 186. A Government representative of China** said that the new paragraph as subamended by the Employers' group represented a practical way forward. It took the issue of divergent views on board and allowed for the possibility to find other solutions.
- 187. The Employer spokesperson** recalled that a significant number of Governments had emphasized the importance of tripartite governance and structures. The legal system was only as good as its support. The supervisory system would be strengthened and rendered more effective by ensuring that it was supported by a broad tripartite consensus. Attempts to find consensus should be made prior to recourse to the courts. The legal traditions and jurisprudence of all countries were moving towards seeking discussion and mediation to resolve conflicts before they came before a judge, and that was particularly the case in industrial relations. If the ILO, as the tripartite house of dialogue at the international level, were to shy away from such an attempt, it would find itself out of step with history. If a reference to the tripartite structures was not included in the new paragraph, then it was not a compromise proposal. Both elements were needed to ensure that the tripartite dialogue element was there to strengthen the factual and substantive body of the supervisory system.

188. **The Government representatives of Australia, Japan, Mexico and the United Kingdom** expressed support for the subamendment to the new paragraph proposed by the representative of the United States.
189. **Speaking on behalf of the EU and its Member States**, a Government representative of France reiterated that she supported the new paragraph as proposed by the Workers' group. Before taking a position on the subamendment proposed by the representative of the United States, she wished to hear the views of the Workers' and Employers' groups.
190. **A Government representative of Brazil** expressed support for the subamendment proposed by the representative of the United States, but suggested that wording along the lines of "as an auxiliary means to resolution" could be added after "including through tripartite social dialogue".
191. **The Employer spokesperson** requested clarification of whether the subamendment proposed by the representative of the United States included the reference to the work plan.
192. **A Government representative of the United States** said that, although her original proposal had not included the reference to the work plan, she would be happy to retain it.
193. **The Worker spokesperson** said that she would be willing, in the interests of reaching agreement, to incorporate the words "including through tripartite social dialogue" at the end of the new paragraph as proposed by her group. That would be the end of the sentence; she could not accept any additional wording beyond that phrase. It was her understanding that many Governments did not want a paragraph that was unclear on how to deal with interpretation and divergences on international labour standards, and some members of her group were reluctant to accept a broadening of the issue beyond the debate on how to achieve legal certainty.
194. **The Employer spokesperson** said that the role of the Governing Body was to find ways forward and she recalled that the Governments held a variety of views. The Employers welcomed the subamendment proposed by the representative of the United States and stood ready to accept a version of the new paragraph that incorporated both that subamendment and the further subamendment just proposed by the Workers' group, on the understanding that the Office would also develop approaches and ways to settle unresolved disputes and discuss them through tripartite social dialogue, and that the door would be left open in that sense.
195. **Speaking on behalf of the Africa group**, a Government representative of Morocco expressed support for the new paragraph as subamended by the representative of the United States and by the Workers.
196. **Speaking on behalf of the EU and its Member States**, a Government representative of France also expressed her support for the new paragraph as subamended by the representative of the United States and by the Workers. She appreciated the willingness of the different groups to accept the solution.
197. **The Worker spokesperson** said that she could support the adoption of the text as subamended and welcomed the contributions made by all to the result, which marked an important step forward. While she stood ready to participate in future discussions on the different views on the subject that were held in the Governing Body, she did not share the Employers' understanding in that regard.

Decision

198. The Governing Body, considering that settling disputes relating to the interpretation of international labour Conventions in accordance with article 37 of the ILO Constitution is fundamental for the effective supervision of international labour standards, decided to continue its discussion at its 347th Session (March 2023) and requested the Office to facilitate tripartite consultations with a view to preparing:

- (a) proposals on a procedural framework for the referral of questions or disputes regarding the interpretation of international labour Conventions to the International Court of Justice for decision in accordance with article 37(1); and**
- (b) additional proposals for the implementation of article 37(2), taking into account the guidance of the Governing Body and the opinions expressed in the tripartite exchange of views.**

199. The Governing Body expressed its commitment to further implement the work plan on strengthening the supervisory system, including through tripartite social dialogue.

(GB.344/INS/5, paragraph 74, as amended by the Governing Body)

6. Issues relating to the inclusion of safe and healthy working conditions in the ILO's framework of fundamental principles and rights at work (GB.344/INS/6 and GB.344/INS/6(Add.1))

200. The Employer spokesperson said that it was important to bear in mind that the draft resolution would not create a new constitutional principle but would recognize an existing principle as fundamental. Within the ILO, parties to the fundamental occupational safety and health Conventions would be subject to increased scrutiny to effectively implement the instrument in law and practice in their countries. There would be more frequent reporting requirements with the Committee of Experts on the Application of Conventions and Recommendations and the Conference Committee on the Application of Standards, and more frequent article 24 representations. Governments that had not ratified the fundamental Convention would nevertheless have a constitutional obligation "to respect, to promote and to realize, in good faith" the new principle on occupational safety and health, based on their ILO membership, under the 1998 Declaration. Outside the ILO, the choice of the terminology for the fundamental principle and the selected fundamental Convention would have major repercussions, as states and non-state actors might take actions influenced by the ILO occupational safety and health-related standards. Major trading states or banks could revert to pressure on developing countries to ratify the new Convention and implement it by establishing respective requirements in trade agreements, trade incentive schemes, and loan or investment agreements. In order to rationalize any impacts and avoid unintended consequences, it was important to focus on the essential.

201. Regarding the selection of one or more occupational safety and health Conventions to be recognized as fundamental, criteria should be established to assess the four Conventions proposed in the documents, covering their fundamental nature and the degree to which they are recognized as fundamental both inside and outside the ILO. While the draft resolution did not provide sufficient information to conduct a proper assessment against those criteria, her group considered that the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187), was the most suitable instrument to be recognized as fundamental. The two key objectives of the instrument were the development of a preventive

occupational safety and health culture and the application of a system to manage occupational safety and health at national level. Convention No. 187 allowed ratifying Member States flexibility in implementing it regardless of the level of development in the country, and was also the most modern ILO standard on occupational safety and health with the highest number of ratifications in the previous five years. It had been recognized as a key instrument in the Plan of action (2010–2016) to achieve widespread ratification and effective implementation of the occupational safety and health instruments (Convention No. 155, its 2002 Protocol and Convention No. 187). In the 2017 General Survey, the Committee of Experts had noted that the Convention's focus on social dialogue gave it potential to contribute to the effective promotion of occupational safety and health. The Convention was also recognized in the 2008 Seoul Declaration on Safety and Health at Work and the 2011 Istanbul Declaration.

202. The other instruments were not as suitable under the criteria her group had outlined. While the Committee of Experts considered the Occupational Safety and Health Convention, 1981 (No. 155), a key instrument along with Convention No. 187, during the 2009 General Survey discussion some governments had highlighted obstacles to full compliance. Discrepancies between national practice and certain ambiguous provisions in Convention No. 155, such as those on the provision of training and the introduction of a monitoring system, sometimes complicated ratification. Convention No. 155 appeared to lack a balanced distribution of responsibility among the main actors. It had been followed by later instruments, including Convention No. 187, with a more modern and consistent framework. Her group did not, therefore, consider Convention No. 155 as an instrument that could be universally recognized as fundamental.
203. Turning to the Occupational Health Services Convention, 1985 (No. 161), with only 35 ratifications it had not been very well appreciated by ILO constituents. Given that there had been neither a General Survey nor a comprehensive tripartite discussion to review its implementation in law and in practice, there was no basis for the recognition of Convention No. 161 as fundamental. In addition, the Protocol of 2002 to the Occupational Safety and Health Convention, 1981, with its narrow focus on the notification of occupational accidents and diseases, could not be considered a fundamental occupational safety and health Convention and was the least ratified of the proposed instruments. Therefore, only Convention No. 187 could be considered a fundamental occupational safety and health Convention as its importance in that area was well recognized within the ILO and it offered flexibility for effective implementation by Member States. It would be fully in line with previous practice to only have one Convention set out as fundamental in the 1998 Declaration.
204. Regarding terminology, any principle related to occupational safety and health should be clearly derived from the ILO Constitution itself and not from any other instruments as the purpose was to reaffirm the existing constitutional principle. The most appropriate wording for the new paragraph 2(e) of the 1998 Declaration was, "Adequate protection for the life and health of workers in all occupations," as it was used in the Declaration of Philadelphia, which was part of the ILO Constitution, and would establish, in the clearest and most visible way, a link between those two instruments. Referring to the exact wording in the ILO Constitution was an approach already used for the fundamental principle of the effective recognition of the right to collective bargaining. The use of such wording would also eliminate any concerns that the amendment of the 1998 Declaration might create new constitutional obligations for ILO Member States. Such wording seemed sufficiently open to evolving perceptions of occupational safety and health, and provided a margin of appreciation, as long as such perceptions fit within the scope of the constitutional principle.

205. In the documents under discussion, the terminology “safe and healthy working environment” was presented as the most commonly used in ILO occupational safety and health Conventions, providing grounds for its use in the new occupational safety and health principle. However, her group wondered why the wording of the new constitutional principle should be aligned with the wording of certain Conventions and not with that of other instruments, which referred more often to “safe and healthy working conditions”. Her group also questioned the need to align the wording with ILO or other instruments at all, as the focus was on a constitutional principle. The only instrument with which alignment was necessary was the ILO Constitution itself. Moreover, the terminology, “safe and healthy working environment” was too vague, could be understood as creating new obligations for Member States, and did not accurately reflect the idea of a shared responsibility among all actors.
206. Her group underlined the importance of including a well drafted and comprehensive saving clause in the amendment. It had, at the outset, highlighted the possible risks of direct and indirect legal and trade implications further to the inclusion of an occupational safety and health principle on free trade agreements containing labour provisions, and had requested the Office to provide more information in that regard to ensure that any inclusion of the occupational safety and health principle would not create unintended consequences on existing free trade agreements. Thanking the Office for the provision of such information, her group noted that the analysis provided in the addendum being discussed nevertheless demonstrated a lack of clarity in that regard. Certain paragraphs indicated that the possibility of indirect legal implications through evolutive interpretation, subsequent agreement and subsequent practice, or relevant rules of international law under Article 31 of the Vienna Convention on the Law of Treaties, could not be excluded. Within a particular set of circumstances, a given body, such as an arbitral panel, could interpret the free trade agreement differently, based on the legal and factual circumstances at the time of interpretation. Likewise, a Conference resolution amending the 1998 Declaration could be taken into account by any such body for the purposes of interpreting labour provisions of free trade agreements. It was therefore essential to include a saving clause in the draft resolution to prevent any interpretation of the free trade agreements contrary to the intention of the parties to that agreement. The current wording of the saving clause in the operative paragraphs of the draft resolution was insufficient to fully cover the potential risks involved. Reference to unilateral systems of trade preferences and other bilateral or multilateral international agreements, and text to prevent unintended effects of the amendment on trade schemes and international agreements, should also be included.
207. The inclusion of occupational safety and health in the ILO’s framework of fundamental principles and rights at work was a landmark decision that would have a far-reaching impact inside and outside the ILO. Her group supported the draft decision.
208. **The Worker spokesperson** said that her group had been surprised by the position of the Employers’ group regarding the selection of instruments to be recognized as fundamental. Given the focus on the right to fundamental health and safety inside and outside the workplace, her group firmly supported the selection of Convention No. 155 to be recognized as fundamental. In addition to the focus on a national policy on occupational safety and health, Convention No. 155 included specific requirements regarding the rights, duties and responsibilities of employers, and workers and their representatives, at the level of the undertaking. A fundamental right could not only be about promotion.
209. The second Convention her group supported was Convention No. 161. Occupational health services were key to identifying and addressing potential causes of work-related ill health and injury by identifying risks in the workplace and ensuring early recognition of any adverse

impact on workers' health. Convention No. 161 was closely linked to Convention No. 155, given the close relationship between the development of a national occupational safety and health policy and the establishment of occupational health services. Convention No. 155 referred to occupational health services, but without regulating them. Effective health services enabled employers to retain valuable trained staff through preventive approaches and the provision of support for those developing work-related health problems. They also conferred significant savings on governments, employers and the wider economy in such areas as insurance and healthcare. Occupational health services were also necessary to ensure that workers with disabilities or health concerns could work safely. If Convention No. 161 was not declared fundamental, the problem of occupational diseases would be dealt with less effectively and at greater human and economic cost. Under that Convention, occupational health services could take many forms, thereby expanding coverage of workers without necessarily adding costs for employers.

210. Regarding Convention No. 187, by reaffirming the policy, principles and processes defined in Convention No. 155, and providing further guidance on how to develop the national policy envisaged in Article 4 of Convention No. 155, it provided guidance on how to implement the obligations contained in Convention No. 155. It was largely for governments to promote a safe and healthy working environment through a national occupational safety and health policy, system and programmes. However, Convention No. 161 offered more in terms of workers' protection against work-related ill health. Should there be support for Convention No. 187 alongside Convention No. 155, her group could agree to declaring Convention No. 187 fundamental, as well as Conventions Nos 155 and 161, as the instruments complemented each other. The Governing Body was not obliged to limit to one or two the number of instruments declared fundamental and ratification rates should not be considered as criteria to decide whether a Convention was fundamental. Of the Conventions under consideration, however, Convention No. 155 had the highest ratification rate, with 74 countries. The promotional aspect of the 1998 Declaration, coupled with ILO technical assistance, had demonstrated the effectiveness of the Declaration in increasing ratification rates of core Conventions. Declaring certain Conventions on occupational safety and health fundamental would likely increase their ratification rates.
211. With regard to the terminology to be used for the new paragraph 2(e) of the 1998 Declaration, her group strongly supported the wording "the right to a safe and healthy working environment". Such a formulation was consistent with ILO health and safety instruments and was used in Goal 8, target 8.8 of the 2030 Agenda for Sustainable Development. It better reflected the various interactions in the workplace that impacted safety and health at work and that needed to be taken into account for the protection of workers against sickness, disease and injury arising out of employment, as well as modern developments, such as teleworking. While certain constituents, including the Employers' group, preferred the wording "working conditions" as used in the ILO Centenary Declaration for the Future of Work and the Constitution, such instruments were not intended to provide guidance on wording on the fundamental right to a safe and healthy working environment in 2022.
212. The term "[conditions/environment]" in the draft resolution should have been used rather than merely "conditions" in subparagraph (a) of the draft decision and Appendix II given that no decision had been made in that regard.
213. Under international law, it would fall to the parties to free trade agreements to ascertain the impact of an amendment to the 1998 Declaration on such agreements and to subsequently decide whether to modify them to take account of the forthcoming amendments. The

amendments would also need to be taken into account in ILO fundamental Conventions and any national texts referring to the new fundamental principle and right.

214. With regard to the saving clause, although her group had not supported it, given the support from several other groups it could agree to its insertion in the preambular paragraphs, pending certain clarifications, in order to facilitate consensus. The saving clause, as currently formulated, must not prevent Member States from amending their trade agreements nor prevent an inclusive interpretation of the amended 1998 Declaration, should that be the intention of the parties. Further references to unilateral statements or other declarations mentioned in the document were not necessary or desirable as the wording was sufficiently clear. A reference should be inserted into the preamble concerning the increased urgency of including a safe and healthy working environment in the ILO's framework of fundamental principles and rights at work owing to the COVID-19 pandemic.
215. Her group strongly disagreed with the clause added to the draft resolution at the Employers' group's request that read, "Noting that protecting safety and health ... collective engagement and action;". The notion of shared responsibility might produce the unintended consequence of equal responsibility, which was not what was set forth in ILO standards. A safe and healthy working environment was a worker's right, while governments and employers had correlating fundamental duties and responsibilities. The occupational safety and health Conventions referred to complementary roles, duties and responsibilities, and a shared commitment of governments, employers and workers to a safe and healthy working environment. Governments and employers dictated the circumstances in which workers exercised their responsibilities to a limited extent. Under Convention No. 155, all the primary responsibilities, including those for health and safety expenditure, fell to governments and employers. Workers, however, had a single duty to participate, cooperate and report at the level of the undertaking to ensure effective implementation. It was vital that the clause in question should be reformulated to reflect that distribution of responsibilities.
216. Her group agreed with the proposed amendments to the 1998 Declaration, the consequential amendments to be introduced to other instruments, and the adoption of a draft Convention and draft Recommendation on amendments consequential upon the adoption by the Conference of the resolution. Given the limited number of amendments to be made, she supported a discussion in the General Affairs Committee. Her group supported the draft decision.
217. **Speaking on behalf of ASPAG**, a Government representative of Australia said that it would be necessary to work through a number of key issues in order to achieve consensus on the recognition of occupational safety and health as a fundamental right through an amendment to the 1998 Declaration. ASPAG looked forward to hearing the views of other Governing Body members on which Conventions should be considered fundamental, and on the most appropriate term to be used for the designation of the fundamental principle. It remained open to options that would make it possible to achieve consensus, including the consideration of alternative wording, such as "health and safety at work," if required. ASPAG supported the inclusion of the saving clause in the draft resolution. To facilitate further discussion, it also sought views from other groups on the Office's analysis of the impact that occupational safety and health, as an additional fundamental principle and right at work, would have on trade. He requested the Office to further elaborate on the concerns raised previously regarding the impact of free trade agreements and trade. It was important for additional consultations to be held in an inclusive format to ensure that the tripartite constituents had the opportunity to express their opinions. The Office should carefully consider any questions or issues raised by constituents during those consultations. Any Convention or Recommendation that made

consequential amendments to other instruments should be the subject of further discussion at the 346th Session of the Governing Body.

- 218. Speaking on behalf of the Africa group,** a Government representative of Senegal said, regarding terminology, that the Africa group was favourable to the wording “safe and healthy working environment”, which was broader than “safe and healthy working conditions”, and which was used in the most recent international labour standards on the matter. Regarding the Conventions to be recognized as fundamental, his group wished to express its preference for Convention No. 155, which took a more comprehensive integrated approach to occupational safety and health, and Convention No. 187, which was the only international labour standard to refer to occupational safety and health as a right. The Africa group endorsed the draft decision.
- 219. Speaking on behalf of IMEC,** a Government representative of Sweden supported the proposed amendment of paragraph 2 of the 1998 Declaration, and agreed that the title of the revised Declaration should indicate that it had been amended. It was clear from the deliberations of its previous session that a majority of the Governing Body wished to formally recognize the fundamental principle and identify the corresponding Conventions in parallel. The fundamental Conventions ultimately chosen should set out the basic principles, nature and progressive development of occupational safety and health systems, rights and obligations that ensured the prevention of occupational injuries and diseases, and should be general in scope. IMEC believed that Convention No. 161 and its 2002 Protocol, while being key standards, did not meet the criteria to be designated as fundamental. Future discussions should therefore focus on the remaining instruments outlined in the Office document. Under such criteria, IMEC was open to ongoing discussions on the matter. It also remained open to discussions on suitable terminology to be used in an ILO context. IMEC agreed that the current free trade agreements would not be affected by the amendment to the 1998 Declaration and endorsed the inclusion of a saving clause. IMEC supported the draft decision and the option of referring the matter to the General Affairs Committee.
- 220. Speaking on behalf of the EU and its Member States,** a Government representative of France said that Turkey, North Macedonia, Montenegro, Serbia, Albania, Iceland, Norway, Ukraine, Republic of Moldova and Georgia aligned themselves with the statement. The EU and its Member States strongly supported the need to recognize safe and healthy working conditions as a fundamental principle and right at work. He welcomed the inclusion of the item on the agenda of the 110th Session of the International Labour Conference and supported the option of referring it to the General Affairs Committee for the final steps. Safe and healthy working conditions were an essential element of a human-centred response and should be an integral component of any long-term recovery plan. Concerning terminology, the EU and its Member States had previously expressed a preference for “working conditions” but acknowledged that the term “environment” had been widely used in ILO Conventions on occupational safety and health. Both terms were used on a regular basis in international, regional and domestic legal instruments, and often interchangeably. He remained open to discussions on the most suitable option. The EU and its Member States continued to have a preference for Conventions Nos 155 and 187 to be recognized as fundamental and supported the Office’s analysis that referred to those Conventions as complementary in defining the general principles of occupational safety and health, which was also in line with the conclusions of the Committee of Experts. The EU and its Member States had not identified any effects on existing free trade agreements that would arise from an amendment to the 1998 Declaration, particularly as free trade agreements tended to refer specifically to the four fundamental rights at work. He welcomed the inclusion

of a saving clause, pending negotiations on the final wording. He supported the draft text of the resolution and the draft decision.

- 221. Speaking on behalf of ASEAN**, a Government representative of Indonesia supported the recognition of occupational safety and health as a fundamental principle and right. It would be relevant to use the wording “safe and healthy working environment,” which was currently employed in various international labour standards on occupational safety and health. It was important to include a saving clause related to occupational safety and health as a fundamental principle and right in the world of work in the operative paragraphs of trade agreements made by Member States. She supported the draft decision.
- 222. A Government representative of the United States** concurred that the focus should be on links with Conventions that contained general provisions, since other occupational safety and health instruments covered specific risks or sectors. Conventions Nos 155 and 187 established the rights, duties and obligations fundamental to safety and health at work and provided general frameworks for the protection of those rights and for the application of other general or specific instruments. The term “working conditions” would be most appropriate to her national context in view of the national legislation, but her Government remained open to other options. While the draft resolution contained the essential elements, some revisions may be necessary pending decisions on key issues. She supported the proposal to adopt a limited amendment to paragraph 2 of the 1998 Declaration that would make occupational safety and health a fifth principle and create a clear link to the existing principles. Her Government considered that the parties to a free trade agreement were bound by the terms of agreement as understood on their entry into force and those obligations would change only if the parties to the agreement decided to alter the provisions by mutual consent. The proposed saving clause would help to clarify that point and address concerns. She supported the draft decision.
- 223. A Government representative of Barbados** said that his Government valued and promoted a human-centred approach to development and highlighted the importance of both the COVID-19 pandemic and the slow-moving pandemic of antimicrobial resistance to the safety and health of all people, including workers. Occupational safety and health was the ultimate human-centred consideration; workers could only be productive if they were healthy, while their ill health also had an impact on their dependants. The inclusion of occupational safety and health in the ILO’s framework of fundamental principles and rights at work would confirm that the Organization took a human-centred approach. In his view, the wording “working environment,” rather than “working conditions”, would better correlate with the essential humanity of workers. He supported the draft decision.
- 224. A Government representative of Brazil** said that the decision on the occupational safety and health Conventions to be recognized as fundamental should be agreed before the adoption of the draft resolution by the International Labour Conference at its 110th Session. Convention No. 155, ratified by 74 countries from all regions, would be the most suitable instrument to be recognized as fundamental given its general nature and scope. It also provided a good protection framework and promotional measures that could provide a basis for a better understanding of how occupational safety and health could be promoted as a fundamental principle and right. He expressed a preference for the wording “safe and healthy working conditions” to maintain consistency with the Centenary Declaration, but remained open to other options in the interest of achieving consensus, including the wording proposed by the Employers’ group. Overly general formulations that would extend the scope of occupational safety and health beyond the workplace should be avoided. He supported the Office’s proposal to include a saving clause as an operative paragraph in the draft resolution to pre-empt the impact of an additional category of fundamental principles and rights on trade agreements.

- 225. A Government representative of Bangladesh** said that the disproportionate impact of the COVID-19 pandemic on countries was resulting in an unequal recovery. Constraints in resources and capacities experienced by Member States should therefore be taken into account when identifying which Conventions relating to occupational safety and health should be recognized as fundamental. He expressed a preference for the wording “safety and health at work” over “safe and healthy working environment,” but would remain open to other views, and recommended keeping the number of occupational safety and health Conventions to be recognized as fundamental to a minimum. He supported the inclusion of a saving clause on free trade agreements and called for further discussion on the amendment to be made to paragraph 2 of the 1998 Declaration to recognize occupational safety and health as an additional category of fundamental principles and rights at work.
- 226. A Government representative of Argentina** said that he supported the proposal to amend the 1998 Declaration and the inclusion of safe and healthy working conditions as a fundamental principle. He also supported the recognition of Convention No. 187 as a fundamental right as it encompassed the basic elements required for a comprehensive tripartite policy on the matter and appropriately reflected the principle being proposed for inclusion in the 1998 Declaration. The term “conditions” was preferable to “environment” as it provided greater certainty regarding the circumstances that should be expected by workers and employers.
- 227. A Government representative of Cuba** agreed that the principle of safety and health at work should be incorporated into paragraph 2 of the 1998 Declaration, which should keep its current title with the addition of the words “as amended”. Further discussions on the appropriate terminology would be needed; however, she preferred the wording “safe and healthy working conditions” as it was aligned with the Centenary Declaration and other international human rights instruments. Since members would assume new obligations once Conventions on occupational safety and health were recognized as fundamental, broader discussions would also be needed to ensure that the views of all constituents were taken into account in the selection of those Conventions. She requested the Office to provide more detailed information to ensure that the draft resolution could be adopted after such discussions at the 110th Session of the International Labour Conference.
- 228. A Government representative of Colombia** said that the COVID-19 pandemic had underscored the fact that more needed to be done to protect workers. Regarding terminology, she said that “environments” and “conditions” were two distinct concepts, but that the term “conditions” was more appropriate in the current context since it aligned better with the title of the agenda item currently under discussion and the wording of the resolution on the Centenary Declaration adopted by the International Labour Conference at its 108th Session. Convention No. 187 should be recognized as fundamental as it maintained consistency with the obligations assumed by the ILO in the Declaration of Philadelphia. The saving clause in the draft resolution should be inserted as an operative paragraph and must explicitly establish that nothing in the draft resolution should be construed as affecting the rights and obligations of a member arising from existing trade agreements to which it was a party.
- 229. A Government representative of India** said that safe and healthy working conditions should be defined at the national level in accordance with country contexts since the uniform application of occupational safety and health standards could jeopardize the comparative advantage of developing countries and create an indirect barrier to trade and economic prospects. Furthermore, the recognition of occupational safety and health as a fundamental principle and right at work could have repercussions for national legal and regulatory frameworks and existing trade agreements. Although the draft resolution had included a

saving clause, a thorough analysis of the differences in the national legislation of Member States and of the possible impact of any decision on trade agreements should be conducted before its submission to the 110th Session of the International Labour Conference.

230. It would also be important to identify the Conventions to be recognized as fundamental and to provide constituents with the opportunity for comprehensive consultations on the matter. In-depth discussions would also be needed to provide clarity on the meaning and scope of the terms “conditions” and “environment” and to assess the practical and legal implications for Member States of any consequent amendments to Conventions and Recommendations adopted after the 1998 Declaration that contained references to fundamental principles and rights at work. Constituents must reach consensus on those elements before submitting the draft resolution to the Conference.
231. **A representative of the Director-General** (Deputy Director-General for Policy) thanked the Governing Body for its guidance and concurred that constituents would need clarity and certainty to make an informed decision.
232. The Office would examine how to formulate the saving clause to include investment treaties. The clause would neither oblige countries to align their free trade agreements with any amendment to the 1998 Declaration nor prevent them from doing so. Unilateral trade incentive arrangements such as the generalized system of preferences could only be modified at the discretion of their authors and no international instrument could introduce changes to their conditions. Thus, a non-binding resolution of the International Labour Conference would not affect the scope or content of trade agreements or international treaties concluded by Member States outside the ILO, and members would therefore be free to interpret and amend their agreements as they wished. The saving clause would stipulate that nothing in the draft resolution would affect the rights and obligations of a member arising from existing trade agreements to which it was a party.
233. Noting the concerns raised by the Workers’ group regarding shared responsibility, she said that Conventions on occupational safety and health called for collective responsibilities for the sound management of occupational safety and health that required the active participation of Governments, employers and workers in a framework of well-defined rights and duties as well as dialogue and collaboration. At the enterprise level, employers and workers were required to cooperate on occupational safety and health matters directly or through mechanisms established for that purpose.
234. She drew the Governing Body’s attention to the decision that it had adopted on the matter at hand at its 343rd Session, recalling that it was the International Labour Conference that would make the decision on the inclusion of safe and healthy working conditions in the framework of fundamental principles and rights at work. The Office would support constituents in their deliberations on the matter in advance of the 110th Session of the Conference, including by facilitating as many rounds of consultations between now and the opening of the Conference as might be needed and providing the information needed to achieve consensus.
235. **The Employer spokesperson** said that it would be important to be realistic when seeking solutions to such a complex matter. It was clear that further discussions would be needed in order to achieve consensus.
236. **The Worker spokesperson** said that she wished to clarify that the amendment proposed by the Workers related to the draft decision. Before constituents could make decisions on the terminology to be employed and the Conventions to be recognized as fundamental, there should be a thorough discussion on how rights were determined so that the ILO could provide

justification for those that it chose to recognize as fundamental. Furthermore, workplaces were now more flexible and the challenges relating to occupational safety and health had expanded beyond the traditional examples of physical injury in industrial settings. It would therefore be crucial to agree wording that would remain relevant in the long term.

- 237.** She urged the Governing Body to consider recognizing Convention No. 155 as fundamental since it clearly set out rights, obligations and duties, whereas Convention No. 187 was complementary. She noted the lack of support among constituents for Convention No. 161 to be recognized as fundamental. While the reluctance of Governments to support the recognition of certain Conventions as fundamental if they had not ratified them was understandable, she reminded constituents that a similar call for the universal ratification of Conventions and Protocols relating to child labour had proved successful in encouraging the ratification thereof. She called for further discussion of the matter.
- 238. The Director-General** said that there was a clear need for a saving clause in the draft resolution in order to reassure constituents that their obligations under existing trade agreements would not be affected by the recognition of new fundamental right. The prevailing opinion appeared to be that the relevant wording should be inserted as an operative paragraph of the draft resolution.
- 239.** He welcomed the openness demonstrated by constituents, especially Governments, to accommodate a consensus position on the terminology to be used in the draft resolution. He clarified that the text before the Governing Body had not been finalized and constituents would have the opportunity to consult on its contents before it was submitted to the 110th Session of the International Labour Conference. He also recalled that constituents had already decided to place on the agenda of the Conference an item that referred to “safe and healthy working conditions,” which explained the wording in the title of the draft resolution as presented in the document without precluding that this wording could still be modified during the Conference discussions. It was also becoming apparent which Conventions constituents felt should be recognized as fundamental, which boded well for the achievement of consensus in the forthcoming informal consultations.
- 240.** He noted that there had been considerable support for the proposal to address the matter in the General Affairs Committee and highlighted the logistical difficulties of establishing a dedicated committee on the matter. He requested clarification from the Workers’ group on their proposed amendment to the draft decision.
- 241. The Employer spokesperson** agreed that the matter should be addressed by the General Affairs Committee and suggested maintaining the original title of the draft resolution as presented in the document, which would not preclude discussions on the text itself.
- 242. The Worker spokesperson** said that her group’s concern had stemmed from discrepancies in the titles of the two appendices to document GB.344/INS/6. Whereas the title of Appendix I reflected both terms under consideration, the title of Appendix II did not. It had appeared to her group that a decision had already been made on the wording of the draft resolution; that not being the case, her group would accept the original language used in the draft decision, on the understanding that the text would remain open for further discussion.

Decision

243. The Governing Body requested the Director-General:

- (a) to prepare a draft resolution regarding the inclusion of safe and healthy working conditions in the ILO’s framework of fundamental principles and rights at work**

through an amendment to paragraph 2 of the ILO Declaration on Fundamental Principles and Rights at Work, 1998, for consideration at the 110th Session (2022) of the International Labour Conference taking into account the guidance provided and the views expressed during the discussion of documents GB.344/INS/6 and GB.344/INS/6(Add.1); and

- (b) to organize to that effect informal consultations to facilitate the examination of the draft resolution by the Conference.

(GB.344/INS/6, paragraph 37)

7. Report on the outcome of the Global Forum for a Human-centred Recovery (GB.344/INS/7)

244. The Governing Body had before it an amendment to the draft decision, which had been proposed by the Employers' group and circulated by the Office, which read:

The Governing Body:

- (a) took note of the successful proceedings and outcomes of the Global Forum for a Human-centred Recovery, held from 22 to 24 February 2022, including the related commitments of a wide range of institutions to enhance cooperation with the ILO; and
- (b) requested the Director-General to:
 - (i) continue to work within the multilateral system, in line with the guidance provided during discussions GB.340/INS/6, GB.341/INS/7 and GB.341/INS/8 so as to identify possible areas of convergence with the ambitions set out in the report of the Secretary-General of the United Nations entitled *Our Common Agenda*, to enhance and systematize institutional arrangements and to render them more coherent;
 - (ii) take into account its guidance in the continuing implementation of the ILO global call to action adopted by the 109th session of the International Labour Conference for a human-centred recovery from the COVID-19 crisis that is inclusive, sustainable and resilient; and
 - (iii) develop the follow-up to the commitments for enhanced cooperation with the ILO made by the institutions at the Global Forum with the close involvement of the tripartite constituents and report back to the Governing Body in due course on their ~~the implementation of these initiatives and arrangements and give consideration to the advantages and resource requirements of potentially institutionalizing the Global Forum on a recurrent basis.~~

245. **The Worker spokesperson** emphasized the importance of the ILO's promoting greater policy coherence for a rights-based, human-centred recovery from the COVID-19 pandemic. The commitments made by multilateral organizations during the Global Forum were timely and relevant in the light of the huge economic and social consequences of the pandemic, including its devastating human toll, especially among frontline workers. The unequal impact of the pandemic on workers and enterprises and within and among countries had exacerbated existing inequalities. In particular, workers in insecure forms of work, the informal economy and precarious forms of work such as the platform economy had seen a drastic reduction in income and employment, eroding their livelihoods and increasing poverty. The commitments made by the ILO in collaboration with other agencies must be based on its mandate and core values, be embedded in a rights-based approach and international labour standards, and aim at reducing inequalities.

246. She noted with satisfaction the joint commitments made by the Office and the United Nations Development Programme (UNDP) on the Global Accelerator for Jobs and Social Protection for

a Just Transition. Any efforts concerning job creation must centre on decent jobs and avoid promoting insecure forms of work, since precarious work would lead to a precarious recovery. Reversal of the erosion of the employment relationship and the extension of social protection to workers in the informal economy were issues that must be placed high on the ILO's agenda. Addressing those issues would require public investment, greater policy coherence, and coordination on macroeconomic policies aimed at fostering industrialization, economic diversification and equitable structural transformations for the creation of decent formal work opportunities, while also addressing the climate emergency. Investment in the care economy would also be vital.

247. She called for the strengthening of official development assistance and the establishment of an international financing mechanism, such as a global social protection fund, to complement domestic resource mobilization. The Office should adopt a rights-based approach to any engagement with the Global Accelerator and should also take into account the conclusions of the recurrent discussion on social protection (social security) adopted by the International Labour Conference at its 109th Session (2021). It would also be important to develop road maps that explained how the suggested policy interventions would be financed at the national level. International financial institutions should seek to increase the resilience of economies when providing financial assistance to countries; financial assistance should avoid conditionalities that would require the imposition of austerity measures, which would result in increased poverty. More efficient, progressive taxation systems, efforts to formalize the informal economy and measures to combat tax evasion and injustice would also be crucial.
248. The Workers' group welcomed the commitments made by multilateral partners and Heads of State to bolster work in the area of a just transition, and supported the strengthening of the Climate Action for Jobs Initiative. Her group also supported the Office's efforts to scale up collaboration within the multilateral system, advocate for a just transition at the 26th UN Climate Change Conference (COP 26) and prepare for a greater ILO presence at COP 27. The commitments of governments and multilateral organizations to support vulnerable groups whose situation had been aggravated by the pandemic were welcome, but the language describing the groups should take into account the increased vulnerability of millions of workers caused by the heightened precarity and informalization of jobs.
249. Efforts to improve policy coherence on gender equality must be strengthened across the multilateral system. The lack of a dedicated panel at the Global Forum was a missed opportunity to position the ILO at the forefront of the transformative agenda on gender equality. Many gains had been lost as a result of the pandemic, as women were over-represented in the hardest-hit occupations, and gender pay gaps remained one of the largest obstacles to reducing inequalities and achieving the Sustainable Development Goals by 2030.
250. Much more needed to be done to achieve policy coherence within the multilateral system. She underscored the importance of social dialogue in the design and implementation of initiatives agreed at the Global Forum and called on the Office to keep constituents informed of the actions developed under the initiatives. She urged the Office to continue to consult with constituents on the Global Accelerator in advance of the publication of the next concept note. The Office should also take account of the resolution concerning inequalities and the world of work adopted by the Conference at its 109th Session and the proposed strategy on skills and lifelong learning to avoid duplicating efforts and to put the ILO agenda for employment creation, reduction of inequalities and social justice at the heart of its interactions with the UN.
251. The report on the implementation of the initiatives agreed at the Global Forum, proposed in the original draft decision, would help the Governing Body to decide on the way forward,

including on the possible institutionalization of the Global Forum. The proposal made at the 341st Session of the Governing Body (March 2021) for the establishment of an ILO forum on the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy (MNE Declaration) should also be considered in the follow-up to the Global Forum. Her group would reserve judgement on the amendment to the draft decision proposed by the Employers' group until it had considered the subamendments to be proposed by other members.

252. **The Employer spokesperson** emphasized that accelerating recovery in key areas was essential, as the impact of the COVID-19 pandemic and its mitigating measures were still being felt. On the foundation of the Centenary Declaration and the global call to action, the ILO must make full use of its tripartite experience in responding to global social and employment demands. In the context of UN reform, the ILO must ensure that all tripartite constituents are heard and should consolidate the Organization's leading role in employment, labour and social issues, during the COVID-19 pandemic and beyond.
253. Her group welcomed the joint initiatives and enhanced institutional arrangements with other agencies, particularly those focused on productivity growth and skills development. In line with the Centenary Declaration, the ILO should be more ambitious in its actions and its engagement in those areas. It was regrettable that the role of the constituents was not mentioned in the report or the draft decision. Partnerships and collaborations should be focused on real needs and priorities at the national level, which could be best identified by the social partners, and it was therefore essential to ensure that employers' and workers' organizations were consulted. In the design and implementation of cooperation activities, the Office should be guided by previous Governing Body discussions, in particular the ILO-wide strategy for institutional capacity development, and should consult and communicate systematically with the International Organisation of Employers and the Bureau for Employers' Activities
254. The Employers' group had therefore incorporated both those points in its proposed amendment. In addition, the amendment addressed other aspects that were missing from the original draft decision. The Governing Body must receive regular updates on the implementation of the initiatives to ensure that real, measurable action was delivered. High-level pledges alone were not enough. For that reason, her group did not agree that the most appropriate follow-up action would be to institutionalize the Global Forum. Greater policy coherence was essential, but it was important to assess specific outcomes before any such decision could be made. Moreover, institutionalizing a high-level event raised questions about the role of the Governing Body, which already provided space for direct interaction with multilateral actors.
255. The group supported a discussion by the Governing Body of the report of the UN Secretary-General entitled *Our Common Agenda*, as the agenda would inevitably impact on the ILO's engagement in the multilateral system. The discussion should also include how to preserve the ILO's tripartite nature in the multilateral system.
256. **Speaking on behalf of ASPAG**, a Government representative of Indonesia noted with appreciation the range of joint initiatives and enhanced institutional arrangements that had resulted from the Global Forum. They must now be translated into concrete programmes. The ILO should prioritize the creation of new jobs in a safe and healthy working environment, while strengthening social protection and the competitiveness of workers. Each initiative and institutional arrangement should have specific objectives, taking into account national and regional circumstances and the needs of vulnerable groups. Social dialogue at all levels should be paramount during the preparation and implementation of programmes. A balanced regional approach, with emphasis on programme implementation in developing countries,

was required in all regions, while respecting national ownership. Programmes should target sectors and workers that had been disproportionately affected by the COVID-19 pandemic, such as women, youth, migrant workers, seafarers and fishers, workers in the health and tourism sectors and those working in the informal economy. He asked how the additional high-level and action-oriented discussions within the multilateral system mentioned in the report would be organized, and encouraged the Office to include the ILO constituents in that process. Lastly, he emphasized the need to discuss periodically the progress of the joint initiatives and enhanced institutional arrangements as from the 346th Session of the Governing Body. ASPAG supported the original draft decision, and could also support the amendment proposed by the Employers' group.

- 257. Speaking on behalf of the Africa group**, a Government representative of Rwanda said that global efforts towards a human-centred recovery from the COVID-19 crisis should take into account Member States' particular needs to address global disparities, including in terms of access to financial support and life-saving vaccines. Promoting the local production of vaccines would contribute to sustaining recovery efforts, alongside global initiatives such as the COVID-19 Vaccine Global Access (COVAX) Facility. She welcomed the outcomes of the Global Forum and urged the Office to implement the next steps described in the report. She urged the Office to continue to play its multilateral role, guided by the Centenary Declaration, the global call to action, the UN Secretary-General's report entitled *Our Common Agenda* and the Global Accelerator for Jobs and Social Protection for a Just Transition. Her group supported the draft decision.
- 258. Speaking on behalf of IMEC**, a Government representative of the United States noted that the opportunity for the social partners to engage with leaders of other multilateral institutions had allowed the leaders to gain a better understanding of the actual and potential real-life impact of their organizations' work, and she expressed the hope that it would open space for ongoing dialogue with those institutions. IMEC welcomed the commitments that had resulted from the Global Forum. However, many of the planned collaborations were described in general terms and she requested more detailed information on what the partnerships would entail in terms of approaches, expected results and financing. She requested details about: the World Bank's commitment to the Global Partnership for Universal Social Protection to achieve the Sustainable Development Goals (USP2030); the expected result of the prioritization by the International Monetary Fund (IMF) of social expenditure; the expected outcome of cooperation on a just transition with the Organisation for Economic Co-operation and Development (OECD); the ILO's new framework agreement with the European Bank for Reconstruction and Development; the expected impact of the joint initiative with the UNDP on improving the inclusion of the ILO and decent work priorities in the One UN system; and the involvement of the UNDP in the ILO's development projects and vice versa. Furthermore, she asked what needed to be done for the Office to finalize the initiatives and institutional arrangements, when it expected them to be finalized, and what plans were in place for monitoring and evaluating their outcomes and impact. She asked the Office to provide targets and timelines for that work.
- 259.** As to the draft decision, IMEC was open to considering the advantages of and resource requirements for institutionalizing the Global Forum on a recurrent basis, as proposed in subparagraph (b)(iii). However, the Office should first seek opportunities to consolidate and institutionalize partnerships and initiatives. Any assessment should include information on the impact of the collaborations that had resulted from the first Global Forum. IMEC supported the original draft decision, and could support the amendment to subparagraph (b)(ii) proposed by the Employers' group, but not the proposed amendment to subparagraph (b)(iii). With regard to subparagraph (b)(i), IMEC suggested that the Governing Body should take a more ambitious

approach and proposed a subamendment to replace the Employers' group's proposed wording "during discussions GB.340/INS/6, GB.341/INS/7 and GB.341/INS/8 so as to identify possible areas of convergence with" with the wording "by the Governing Body to identify synergies and opportunities to contribute to".

- 260. Speaking on behalf of the EU and its Member States**, a Government representative of France said that Montenegro, Albania, Iceland, Norway, the Republic of Moldova and Georgia aligned themselves with the statement. The EU and its Member States aligned themselves with the statement by IMEC. She thanked the Office for providing the concept note on the Global Accelerator, noting that enhanced multilateral cooperation and the increased channelling of international resources towards national strategies were key components of the implementation of the Common Agenda. The ILO had a crucial role to play in that regard.
- 261.** She welcomed the new partnerships and deepening cooperation with the UNDP, the Secretariat of the United Nations Framework Convention on Climate Change (UNFCCC), and the WHO. The prompt inclusion of safe and healthy working conditions in the ILO's framework of fundamental principles and rights at work would support the ILO's work with the WHO. She was encouraged by the ILO's increased collaboration with several international financial institutions and regional development banks, and asked how those arrangements would lead to the mobilization of additional financing to build strong social protection systems and support labour-intensive investments with a substantial employment and decent work impact. Cooperation activities should prioritize women and young people, who had been particularly hard-hit by the COVID-19 pandemic, and equal opportunities should be promoted through social dialogue. She noted that the economic power of some economic actors was greater than that of some States; those actors should be encouraged to integrate ILO and UN values in their work.
- 262.** She looked forward to the updated concept note, recalling that reinforcing the role of the ILO and finding a common response to multiple challenges required engagement with multilateral institutions and the integration of the ILO's values in their policies and activities. A comprehensive, calibrated and powerful instrument would build on the synergies between the ILO and the UN. The EU and its Member States supported the original draft decision, but could also support the amendment proposed by IMEC.
- 263. Speaking on behalf of ASEAN**, a Government representative of Indonesia said that his group aligned itself with the statement made by ASPAG and attached great importance to ensuring a human-centred recovery at the regional level. He highlighted initiatives undertaken in his region to strengthen workers' capacity to adapt to the future of work, especially the development of competencies and skills related to the digital transformation. Such capacity-building should be accessible to all members of the workforce, including women, young people and persons with a disability. Worker competitiveness and digital literacy should be among the issues covered by the multilateral discussions to accelerate the implementation of the human-centred recovery. He asked the Office to provide information on how those discussions would be organized. Welcoming the joint initiatives and institutional arrangements announced during the Global Forum, he asked for more information on the strategies and road maps that would be needed to translate those commitments into concrete actions and encouraged the Office to engage with regional organizations in that regard and in future discussions on ways to accelerate the implementation of a human-centred recovery.
- 264. A Government representative of Mexico** said that the Global Forum had been a first step towards implementing the global call to action, and he invited the Office to continue consolidating its leadership role within the multilateral system. The COVID-19 pandemic had

demonstrated the importance of the right to health, and sustainable ways must be found to ensure that all workers had access to universal social protection, which would require building additional capacity in public health institutions. Emphasizing that technological developments and the future of work should not lead to the informalization of the workforce, he highlighted the work being done in his country towards the formalization of workers in sectors that had historically been excluded, and to guarantee labour rights for platform workers, for which he requested the ILO's technical support.

- 265. A Government representative of Morocco** reiterated his Government's commitment to the Global Forum, which had provided a timely opportunity to share views on ways to tackle the heavy fallout from the COVID-19 crisis. The participants' common will to establish joint initiatives illustrated the importance placed by the ILO on joint reflection, coordinated effort and inter-institutional solidarity to address the multidimensional consequences of the crisis and promote an inclusive recovery. After outlining the measures taken by his Government in that regard, he expressed support for the original draft decision.
- 266. The Worker spokesperson** expressed support for IMEC's proposed subamendment to subparagraph (b)(i) of the draft decision and the Employers' proposed amendment to subparagraph (b)(ii). However, she preferred the original subparagraph (b)(iii), as it was not necessary to consult the tripartite constituents on the Office's every action with regard to the Global Forum's outcomes and commitments.
- 267. The Employer spokesperson** said that she could not understand the reluctance among certain parties to accept that the tripartite constituents should be consulted in respect of the follow-up to the Global Forum. In her view, tripartite constituents from around the world must be closely involved in following up commitments on enhanced cooperation, particularly given the high levels of resources allocated to many of the relevant projects and programmes and the high number of conditions imposed.
- 268. Speaking on behalf of IMEC**, a Government representative of the United States explained her group's view that the original draft decision allowed for sufficient consideration of future actions and adequately covered the point that the Office should proceed to consolidate the initiatives and arrangements agreed on during the Global Forum. She reiterated that careful thought must be given to considering the advantages and disadvantages of, and resource requirements for, institutionalizing the Global Forum on a recurrent basis.
- 269. Speaking on behalf of the EU and its Member States**, a Government representative of France said that the EU and its Member States were fully committed to social dialogue and fully aligned themselves with the response given on behalf of IMEC. The report to the Governing Body would fulfil the need for social dialogue.
- 270. The Employer spokesperson** recalled that the involvement of the constituents must extend beyond governance within the Governing Body, to include the ILO's participation in initiatives such as the Global Accelerator; as the sole multilateral organization with a tripartite structure, only the ILO could ensure the constituents' inclusion in such initiatives.
- 271. The Worker spokesperson** said that, although there was broad agreement on the importance of tripartism, opinions clearly differed as to the appropriate level of involvement of the constituents in the Office's work. It was her group's understanding that the draft decision referred to the work to be undertaken by the Office to give effect to the commitments and activities emanating from the Global Forum, and that the constituents would be consulted on, and involved in, major policy decisions.

- 272. A representative of the Director-General** (Deputy Director-General for Policy) noted the importance placed by the Governing Body on accelerated action in crucial recovery areas, and on gender equality. The Office would keep the Governing Body apprised of significant developments in follow-up discussions, many of which were still at an early stage.
- 273.** Responding to questions and observations, she said that the document contained a number of specific references to the role of the tripartite constituents and took into account the importance of tripartism throughout. The ILO and the European Bank for Reconstruction and Development were seeking to cooperate more closely on just transition projects with the intention of combining the ILO's technical policy advice with larger lending and programmatic interventions by the Bank, and were also exploring options for joint work on gender equality and informality. The World Bank, which chaired the Global Partnership for Universal Social Protection to Achieve the Sustainable Development Goals (USP2030), shared the ILO's commitment to the action areas and core principles of the USP2030.
- 274.** The International Monetary Fund's prioritization of social expenditure on the ground meant that tangible action would take place on the ground at the country level. The Fund was working with the ILO to extend social protection in four pilot countries, and a joint assessment of that work would be communicated by the first quarter of 2023. The ILO's partnership with the OECD had commenced with research papers and analysis, including on the social impact and distributive effects of climate policies, and aimed to promote understanding on just transition among the G7 countries and beyond. The joint initiative with the UNDP on the informal economy allowed the Office to promote the Decent Work Agenda in the UN system at the country level. Appropriate consultation would take place on all commitments and partnerships. In relation to the Global Accelerator, consultations with the social partners, UN agencies, international financial institutions and development partners were under way to define the technical support to be offered, its governance structure and how funding would be requested. The impact of all commitments and activities would be evaluated.
- 275. The Employer spokesperson** clarified that her group wished to see explicit reference in the document, and particularly in the decision, to the constituents' role and involvement.
- 276. The Chairperson** suggested retaining IMEC's proposed subparagraph (b)(i) and the Employers' proposed subparagraph (b)(ii), and removing the reference to the recurrent basis from the original wording of subparagraph (b)(iii) while adding a requirement for the Director-General to report to the Governing Body in consultation with the tripartite constituents.
- 277. The Employer spokesperson** and the Worker spokesperson supported the Chairperson's suggestion.
- 278. Speaking on behalf of the EU and its Member States**, a Government representative of France also supported the Chairperson's suggestion. While the ILO should make a commitment to take into account the guidance of the tripartite constituents when engaging in discussions within the UN system, it was not necessary to involve the constituents in every stage of the process of establishing partnerships and initiatives.

Decision

279. The Governing Body:

- (a) **took note of the successful proceedings and outcomes of the Global Forum for a Human-centred Recovery, held from 22 to 24 February 2022, including the related commitments of a wide range of institutions to enhance cooperation with the ILO; and**

(b) requested the Director-General to:

- (i) continue to work within the multilateral system, in line with the guidance provided by the Governing Body, to identify synergies and opportunities to contribute to the ambitions set out in the report of the Secretary-General of the United Nations entitled *Our Common Agenda*, to enhance and systematize institutional arrangements and to make them more coherent;
- (ii) take into account its guidance in the continuing implementation of the ILO global call to action adopted by the 109th Session of the International Labour Conference for a human-centred recovery from the COVID-19 crisis that is inclusive, sustainable and resilient; and
- (iii) report back to the Governing Body in due course on the implementation of these initiatives and arrangements and give consideration to the advantages and resource requirements of potentially institutionalizing the Global Forum, in consultation with the tripartite constituents.

(GB.344/INS/7, paragraph 33 as amended by the Governing Body)

8. Matters arising out of the work of the resumed part of the 109th Session (2021) of the International Labour Conference: Follow-up to the resolution concerning inequalities and the world of work (GB.344/INS/8)

280. The Worker spokesperson said that while the appendix of the document already showcased the ILO's current commitment towards reducing inequalities in the world of work, a more coherent approach was needed, together with a clear vision of the ILO's role in the multilateral system. Such an approach should inform the Office's future work and future programme and budgets. This is expressed in the conclusions as a comprehensive and integrated ILO strategy to reduce and prevent inequalities in the world of work. The proposal to hold consultations on the drafting of this new strategy was welcome. The focus should be on the full conclusions, and not only on the operational part. The ILO should not work in silos but in an integrated manner. Development cooperation projects should support the integrated strategy. Going forward, the ILO could establish an inequality reduction hub to carry out research and analyses and enhance knowledge, and to provide policy advice in the seven interlinked areas identified by the conclusions. To implement its mandate, the ILO needed to support constituents on the ground to change failed policies and develop macroeconomic policies that prioritized rights, employment, social protection and the environment. Where limits were imposed by debt and conditionality, the ILO should provide alternative solutions to deregulation and austerity packages, which undermined labour standards and increased poverty and exclusion. The ILO's role should not be limited to implementation at the national level.

281. The ILO should engage in building new multilateralism to ensure for shared prosperity through policy coherence and a rights-based approach. It could help create multilateral strategies for recovery that reduced inequalities by using the macroeconomic policy levels identified in the Conclusions. The ILO should be a key player in relation to international financial institutions in order to improve their policy prescriptions and increase their contribution to job creation. The employment impact assessment of multilateral and development banks and regional institutions, and investment and trade agreements, was essential. Turning to the appendix, with regard to the point on action in policy areas to reduce inequalities and achieve social justice, he said that the ILO should develop a policy mix to be

implemented at the national level. It should be made clear that when countries requested support from the ILO to reduce inequalities, they should address all elements of the forthcoming ILO strategy and hold consultations with the social partners at the national level. Concerning the point on a positive agenda for reducing inequalities, he highlighted the importance of linking employment and gender-responsive macroeconomic policies with a focus on vulnerable groups, and the need for progressive taxation. Under the same point, there were missing links regarding income distribution and labour income share. The proposed support for constituents to design and implement impact assessments that took into account international labour standards and to assess the effects of international economic and financial policies should also be provided by the ILO at the international level. With regard to the assessment of the impact of climate change, we believe that the social impact at the short and long term should also be considered.

282. For the point on fostering equal opportunity, access to quality education and training and quality public services, clarification on the items related to skills was required. It would also be useful to know how the present implementation plan will interact with the action plan derived from the Conference discussion on skills that will be presented in November 2022. No reference had been made to quality public services. Adequate funding of quality public services, qualified personnel and collective bargaining should be addressed for various services, including care services. Regarding the point on systematically incorporating inequality issues in country-level activities and Decent Work Country Programmes (DWCPs), the references to collective bargaining and the Minimum Wage Fixing Convention, 1970 (No. 131), were welcome. However, the concept of equal pay for work of equal value, and issues such as gender pay gaps should be made more explicit. The issue of living wages should be considered, with an ILO mandate arising from the ILO Declaration of Philadelphia. The point on mainstreaming inequality issues into the follow-up to the ILO Centenary Declaration should reflect the prevention of informalization through outsourcing, delocalization, digital delocalization, unstable contracts and on-call work.
283. Regarding the point on ensuring gender equality and non-discrimination, he noted that specific vulnerable groups, particularly Afro-descendants and indigenous peoples, were not taken into consideration, most likely due to the non-specific language in the conclusions, and requested clarification on the activities to be carried out with all vulnerable groups. The point on promoting trade and development for a fair globalization and shared prosperity did not sufficiently address economic stability with regard to counter-cyclical policies. The ILO work to promote the MNE Declaration in the context of reducing inequalities should be expanded. Engagement with the United Nations Conference on Trade and Development (UNCTAD) and particularly its work on trade and development would be crucial. With regard to the point on assisting constituents, he reiterated that any comprehensive productivity ecosystem could not be solely targeted at enterprise development. It was disappointing to see that a narrow approach was being pursued, while there was silence on the decoupling of wages and productivity and the declining labour income share. The approach was not human-centred and the broader ecosystem needed to be addressed.
284. The point on urgently engaging in stronger multilateral coordination and cooperation should refer to workers' organizations at the international and national levels in UN-related activities and partnerships. Some inter-agency partnerships in areas such as gender equality and a just transition had not been included. On international financial institutions, activities should be defined with regard to the promotion of policies for full employment and alignment with international labour standards. The point on pursuing research and gathering knowledge should reflect the work on the declining labour income share and the positive impact of

collective bargaining on income and wage distribution. In addition to promoting the ratification and implementation of ILO fundamental Conventions, the Office should promote the Employment Relationship Recommendation, 2006 (No. 198). He supported the draft decision.

- 285. The Employer spokesperson** said it was clear that the strategy needed to reflect the outcomes of the Conference discussion on inequalities and the world of work and that the objective was not to renegotiate what had already been agreed. He reiterated the key role of diverse forms of work as stepping stones into employment and contributors to more inclusive labour markets. Investment in sustainable enterprises, workforces, research and development, technological improvements, innovation and the real economy was essential. Formalization of the economy was a necessary condition to reduce poverty and inequalities, advance decent work, and increase productivity and sustainability for enterprises. The promotion of a high and steady volume of trade, with the removal of barriers to the movement of goods and services across borders, could lift millions of people out of poverty. It was regrettable that the recognition of LGBTI rights had been absent from the conclusions of the general discussion on inequalities. The proposed plan of action on inequalities in the world of work for 2022–27 did not clearly highlight the new action and activities that will be carried out by the ILO to address the issue. Further work was needed to link existing activities in a more coordinated and coherent manner in order to increase impact and ensure effective implementation. The plan of action referred to the insufficient current action of the ILO on sustainable enterprises and productivity instead of proposing new action based on the Conference discussion. It therefore did not meet the Employers' expectations or do justice to the discussion held. It was unfortunate that concrete action to promote trade and growth, and a reference to the enabling environment for the Sustainable Enterprise Programme, were lacking in the plan of action. Such shortcomings must be addressed in the strategy and the negotiations on the next programme and budget. Once the strategy had been developed, the action plan must be revised to ensure that it reflected the strategy. He supported the draft decision.
- 286. Speaking on behalf of GRULAC**, a Government representative of Chile said that the document had provided clarification on the activities that could form part of the proposed comprehensive and integrated ILO strategy to reduce and prevent inequalities in the world of work, and expressed the hope that the outcomes of consultations on the proposed strategy to be held with ILO regional offices would be shared with constituents. He welcomed the possibility of conducting pilot country interventions, which would ensure that the proposed strategy could be adapted to country contexts, and hoped that Member States from his region would demonstrate their interest in participating. He requested the Office to provide information on the selection criteria and estimated timetable for that initiative. Since some activities in the proposed strategy would require additional funding, he also requested details on the possible sources of financing for work relating to multilateral cooperation.
- 287.** He noted with satisfaction that the proposed plan of action on inequalities in the world of work for 2022–27 contained many activities that took into account issues of gender in a cross-cutting manner. The proposed strategy should include interventions aimed at accelerating the transition to the formal economy; measures on platform economies and the protection of digital platform workers; and an explicit reference to vulnerable groups.
- 288. Speaking on behalf of the Africa group**, a Government representative of Namibia said that the conclusions concerning inequalities and the world of work provided a reminder of the various factors that contributed to inequalities in the world of work and their impact on the poorest countries. The Office should submit an authoritative analysis of the causes of

inequality in the world of work between and within Member States to the Governing Body for discussion in November 2022.

289. The proposed comprehensive and integrated ILO strategy to reduce and prevent inequalities in the world of work should synthesize relevant policies and guide the ILO's work on inequalities with multilateral partners. Some such guidance was already contained in key ILO instruments, including the Centenary Declaration. The Office should lead efforts to permanently place the elimination of inequality between and within countries on the agenda of international and regional institutions, including financial institutions, and should help Member States to develop plans of action to reduce and prevent inequality, including in DWCPs.
290. The proposed strategy must also prioritize decent employment creation, especially for young people and women; the sustainable development of micro, small and medium-sized enterprises (MSMEs); skills development programmes with a climate change dimension; the transition to formality; overcoming the digital divide; the elimination of inequities in global supply chains; and universal social protection. The Office should help Member States to embed employment in inequality impact assessment methodologies for the formulation and monitoring of DWCPs and to work within the UN system at the national level on decent work, including by taking advantage of the opportunities presented by the Global Accelerator for Jobs and Social Protection. The proposed strategy must also include ways for multilateral partners and civil society organizations to support economic development in Africa with the aim of eliminating inequality, including the creation of an international fund and the extension of equitable financing for skills development.
291. She supported the ILO's research on the impact of public debt on decent work and its advocacy for debt relief measures as many developing countries spent significant funds on servicing international debt rather than funding national development. Her group supported the draft decision.
292. **Speaking on behalf of the EU and its Member States**, a Government representative of France said that North Macedonia, Montenegro, Serbia, Albania, Iceland, Norway, Ukraine, the Republic of Moldova and Georgia aligned themselves with her statement. The ILO was well equipped to assist constituents in tackling the multifaceted issue of inequalities in the world of work through its network of multilateral partners and country programmes. She expressed support for the proposed plan of action on inequalities in the world of work for 2022–27 and highlighted a number of initiatives carried out by Member States in her group to address persistent gender gaps in the labour market. Her group stood ready to work with the ILO to achieve Sustainable Development Goal 10 on reducing inequality.
293. She welcomed the proposal to develop a comprehensive and integrated ILO strategy to reduce and prevent inequalities in the world of work and invited the Office to hold informal tripartite consultations before submitting its proposals to the Governing Body, in line with the provisions of the resolution adopted by the International Labour Conference at its 109th Session. It was surprising that the proposed strategy could not be funded with existing resources; she therefore requested the Office to provide further information at the following session of the Governing Body on the costs of current ILO activities aimed at reducing inequalities, preliminary estimates for future activities linked to the proposed strategy and potential sources of additional funding.
294. She commended the Office for its efforts to address inequalities in the world of work, including by hosting the Global Forum for a Human-centred Recovery in February 2022 and providing

expert guidance and research on the mechanisms through which inequalities were created and addressed. She supported the draft decision.

- 295. A Government representative of the Islamic Republic of Iran** said that the proposed plan of action rightly emphasized the need for a balanced assessment of the manifestations and sources of inequality in the workplace. However, since inequalities were sometimes the result of developments in other policy areas, it could be useful to build constituents' capacities to conduct evidence-based inequality impact assessments. The proposed plan of action primarily targeted inequalities within Member States at a time when the inequalities between them, which were equally important, had deepened due to the COVID-19 pandemic. The Office should therefore pay greater attention to the factors linking inequalities within and between countries and develop a tool to measure inequalities in the world of work at the country level, to facilitate the production of regular global reports and monitoring of trends. He supported the draft decision.
- 296. A Government representative of the United States** welcomed the explanation of the relationship between the ILO's activities and the relevant provisions of the resolution adopted by the International Labour Conference at its 109th Session, the outputs of the Programme and Budget for 2022–23 and the relevant Sustainable Development Goals targets, as well as the projected time frames for carrying out those activities. It was encouraging that a number of the envisaged actions were already included in the programme and budget for the current biennium.
- 297.** She supported the development of a comprehensive and integrated ILO strategy to reduce and prevent inequalities in the world of work and emphasized the importance of workers' voices and empowerment in efforts to reduce inequalities. She called for the inclusion of equality for lesbian, gay, bisexual, transgender, queer and intersex (LGBTQI) individuals in the strategy and requested clarification on the relationship between the proposed strategy and gender action plan. She supported the envisioned outreach to advance the strategy within the multilateral system; in particular, outreach to United Nations resident coordinators would help to integrate the strategy into broader country-level work. She welcomed the proposal to conduct pilot country interventions and highlighted the importance of results monitoring and institutional learning in informing the development of the ILO's future work. She supported the draft decision.
- 298. A Government representative of Bangladesh** said that the disproportionate impact of the COVID-19 pandemic had widened inequalities in the world of work. Greater cooperation among Member States would be needed to reduce those inequalities and would be facilitated by the proposed plan of action. Its implementation would require the mobilization of enhanced technical support to Member States to promote the universal ratification of the fundamental Conventions; the application of measures to address unequal pay for work of equal value, particularly for migrant workers; an analysis of the increase in the gap between worker compensation and wealth created in international trade and business, the findings of which should be included in ILO flagship reports; and the inclusion of enhanced skills and lifelong learning in pilot countries in different regions and contexts. He supported the draft decision.
- 299. A Government representative of the United Kingdom** condemned the unprovoked and barbaric invasion of Ukraine by the Government of the Russian Federation, supported by the Government of Belarus, which constituted a flagrant violation of international law and the principles on which the ILO had been founded. The ILO must speak out in the name of social justice as part of its mission to protect universal and lasting peace.

- 300.** Emphasizing the importance of combating discrimination in the workplace, he welcomed the Conference resolution and conclusions concerning inequalities and the world of work. Reiterating the comments made on behalf of his Government during the 2021 General Discussion Working Party on inequalities and the world of work, he expressed his disappointment that the adopted resolution did not include references to LGBTI individuals, sexual orientation or gender identity. While he welcomed the reference in the conclusions to “those who were vulnerable to discrimination on all grounds covered by international labour and human rights standards”, that did not go far enough to recognize the discrimination against those individuals in the world of work, including in terms of recruitment, salary and violence and harassment in the workplace. He expressed the hope that the ILO would make progress in the recognition of LGBTI individuals. By not recognizing those groups as vulnerable, the ILO was failing those individuals and failing in its mandate to promote decent work for all.
- 301. A Government representative of Barbados** expressed support for the proposed plan of action and the seven priority policy areas identified therein. He concurred on the need to develop a comprehensive and integrated ILO strategy to reduce and prevent inequalities in the world of work. Member States had to demonstrate their determination to introduce change. The COVID-19 pandemic had highlighted the need for workers to be a part of the formal economy and to be protected by social protection systems. The ILO should encourage a deliberate transition to formality and protect workers from being forced into informality, in line with the Decent Work Agenda. He expressed his Government’s serious concern regarding the prevalence of discrimination, especially in light of the history of slavery that had affected the citizens of his country, and stated his Government’s clear opposition to any kind of discrimination, expressing particular support for gender equality. Recalling that Barbados had become the first small State to host the United Nations Conference on Trade and Development, he emphasized the importance for countries and workers of sharing prosperity resulting from fair globalization.
- 302. A representative of the Director-General** (Deputy Director-General for Policy) welcomed the support for the proposed plan of action and noted the priorities highlighted by the constituents. The technical support provided by the Office would depend on constituents’ demands. She underlined the importance of the consultations to develop the proposed ILO strategy, ensure that it met the needs of all constituents and provide a basis for fine-tuning the proposed plan of action in the future. Inequality had also featured prominently in the discussions during the Global Forum for a Human-centred Recovery, and the resulting commitments made by multilateral partners would support the priorities identified in the proposed strategy and plan of action.
- 303.** Responding to the comments and questions raised during the discussion, she said that the follow-up to the Conference conclusions concerning skills and lifelong learning, which would be discussed by the Governing Body at its 346th Session, would be more detailed than the related elements in the proposed plan of action but the two areas of work would be fully aligned. On public services, she said that strengthening national technical and vocational education and training systems formed part of the ILO’s work on skills, which included quality assurance mechanisms, skills recognition services, competency standards, well-equipped trainers and managers and programmes to help disadvantaged groups to overcome access barriers.
- 304.** With regard to the inclusion of an explicit reference to gender pay gaps, she said that the Office always produced data relating to economic sectors containing a significant proportion of female workers in order to ensure the inclusion of women in minimum wage setting and

collective bargaining activities. The global review of wage setting through collective bargaining, planned under output 7.3 of the Programme and Budget for 2022–23, would also take into account the impact of collective bargaining on limiting gender bias in payment systems. The ILO had already conducted a significant amount of research on the labour share of income, in particular to support the publication of the ILO *Global Wage Report*, and was working on measurement and analysis of labour income share, with particular reference to producing and compiling data under indicator 10.4.1 of the Sustainable Development Goals. Recent data had been shared with the United Nations Statistics Division for inclusion in the forthcoming annual report on the Sustainable Development Goals for 2022.

305. She noted that two actions under point 24(b) of the proposed plan of action contained explicit references to the need to ensure that workers gained a fair share of benefits from increased productivity, an objective also reflected under output 4.2 of the Programme and Budget for 2022–23. She agreed that the regular work of the Office in that regard could be strengthened through a more systematic approach. The Enterprises Department was working closely with ACTRAV to that end. Furthermore, the Office was developing a report on labour relations in micro, small and medium-sized enterprises in order to better focus its support in different contexts and to ensure a just share of productivity gains.
306. The proposed plan of action would include the vulnerable groups listed under outcome 6 of the Programme and Budget for 2022–23. The Office was deepening its work on racial discrimination, including the needs of Afro-descendants and indigenous peoples. In 2022, that work would focus on preparing a research plan, the results of which would form the basis of a 2023 report on addressing racial discrimination at work. That report would fill knowledge and data gaps, review existing strategies and tools and propose policy directions as part of a transformative agenda for equality, diversity and inclusion in the world of work.
307. She noted that the development of a comprehensive and integrated ILO strategy on reducing and preventing inequalities was only one of the tasks mandated by the Conference conclusions. Additionally, the Office had already enhanced activities to reduce inequality in several of the seven thematic areas, which were linked to the Programme and Budget for 2022–23. The International Association of Economic and Social Councils and Similar Institutions (AICESIS), a key advocate of the Decent Work Agenda, had chosen inequalities as the theme of the joint ILO–AICESIS conference in December 2022. The Office would provide guidance on producing statistics on inequality-related indicators to inform policymaking and monitoring at all levels. She concurred on the need to improve coordination and effective implementation at the country level, which would be addressed in the proposed ILO strategy.
308. She acknowledged the requests to strengthen capacity to measure and monitor inequalities and noted that related activities had been included in the proposed plan of action under points 23(a) and 24(b), specifically to establish a core set of inequality-related labour market indicators and provide guidance for national data producers in that regard. That work was aligned with existing activities under indicator 10.4.1 of the Sustainable Development Goals. She took note of the proposal that the Office should develop a measurement tool and said that she would assess the Office's capacity to carry out that work. She acknowledged that the proposed plan of action focused more on inequalities within countries than between them and said that the Office would pay greater attention to strengthening the link between those two types of inequalities in the future.
309. All Member States were eligible to participate in a pilot exercise for the implementation of the proposed ILO strategy, as inequality was a universal issue. However, the Office would welcome representation across regions and levels of socio-economic development. Support from the

Office for the implementation of the proposed ILO strategy would depend on the availability of financial and human resources. Member States could express their interest in becoming a champion country at any time, and expressions of interest would be confirmed after the proposed ILO strategy had been endorsed by the Governing Body at its 346th Session. Global and country-level action would initially be financed from regular budget funding, although the need to raise extrabudgetary resources, especially to support work at the country level, could have an impact on the amount of support provided to each country at that level. An estimate of the cost of implementing the proposed ILO strategy would be included in the final version of the document to be discussed by the Governing Body at its 346th Session.

- 310. The Worker spokesperson** welcomed the clear support for the proposed ILO strategy. Contrary to the view expressed by the representative of the Director-General, he considered that the current version of the proposed plan of action did not contain enough clear actions on addressing the declining labour share. He asked what the Office would do to encourage Member States to strengthen coordinated and centralized collective bargaining as a way of combating inequality at the national level and reducing the gender pay gap. His group looked forward to seeing appropriate references included in the revised version of the proposed ILO strategy. Furthermore, he contended that the matter of quality public services required action not only in the area of education, skills and training but across a broader spectrum; a greater number of focused actions were required as part of an integrated strategy to address health, childcare and other related issues.
- 311.** He agreed that outcome 6 of the Programme and Budget for 2022–23 provided a clear description of vulnerable groups. He asked why more research was not being carried out on the declining labour share, despite the clear need identified during the Working Party discussions. While he recognized the existing activities, more should be done to provide clear data to prove the declining labour share and to determine how to address it, including by ensuring that productivity benefits were shared with workers and promoting collective bargaining.
- 312.** Lastly, he reiterated the need to ensure close cooperation with the social partners during the development of the proposed ILO strategy and the importance of revising the proposed plan of action in 2023, in conjunction with the proposed programme and budget for 2024–25.

Decision

- 313. The Governing Body requested the Director-General to:**
- (a) **take into account its guidance concerning the proposed plan of action on inequalities in the world of work for 2022–27 as set out in document GB.344/INS/8, notably the preparation of the comprehensive and integrated ILO strategy to reduce and prevent inequalities in the world of work;**
 - (b) **submit the said strategy, including the corresponding financial implications, for its consideration at the 346th Session (November 2022); and**
 - (c) **consider the outcome of the discussion of the comprehensive and integrated strategy at the 346th Session (November 2022) of the Governing Body in the preparation of the Programme and Budget for 2024–25 and subsequent programme and budget proposals.**

(GB.344/INS/8, paragraph 15)

9. Report of the Tripartite Working Group on full, equal and democratic participation in the ILO's tripartite governance (GB.344/INS/9)

- 314. The Co-Chairperson of the tripartite working group** underscored that only eight further ratifications, including three from Members of chief industrial importance, were needed to secure the entry into force of the Instrument of Amendment to the ILO Constitution, 1986 (1986 Amendment). While progress had been made in relation to ratifications, it was proposed that the Governing Body should request the Director-General to pursue and further intensify the promotional activities in relation to the 1986 Amendment. The social partners and the majority of the Government members of the working group had underlined that the entry into force of the 1986 Amendment must remain the priority to definitively democratize the functioning and composition of the governing bodies of the ILO, as stated in the 2019 Conference resolution on the ILO Centenary Declaration for the Future of Work.
- 315.** The tripartite working group had reached consensus on recommending that the Governing Body should extend its duration for 12 months; it had therefore submitted a regular report rather than the final report requested by the Governing Body in March 2021. The majority had considered that an extension would enable the Co-Chairpersons to continue bilateral discussions on issues of democratization, particularly the ratification and entry into force of the 1986 Amendment. Many members of the working group had considered that it should also address other aspects of ILO governance to further promote equality and fair representation of all regions. If the Governing Body decided to extend its term, the working group would continue to determine the agenda of future meetings collectively. She thanked the members and interested governments for their commitment and spirit of compromise.
- 316. The Employer spokesperson** said that his group welcomed the progress made by the tripartite working group, the ratification by Ireland of the 1986 Amendment and the ratification prospects from Cabo Verde, Gambia, Liberia and Sao Tome and Principe. He encouraged the Director-General to pursue the promotional activities on ratification of the 1986 Amendment. The Employers' group looked forward to contributing to more in-depth discussions on aspects of ILO governance to further promote equitable and fair representation of all regions. The group therefore supported the recommendation to extend the group's duration and for the Co-Chairpersons to continue to hold consultations on the democratization of the ILO's tripartite governance. The Employers' group supported the draft decision.
- 317. The Worker spokesperson** stressed the importance of securing ratifications for the 1986 Amendment as soon as possible, in line with the commitment in the 2019 resolution on the Centenary Declaration. She noted the update on ratifications since November 2021 in document [GB.344/INS/INF/3](#) and welcomed the fact that the ratification procedure was under way in Cabo Verde, Liberia and Sao Tome and Principe; it was hoped that the processes initiated in the Islamic Republic of Iran, the Philippines and Turkmenistan would also lead to ratification in the near future. The absence of responses to the Office's letter of January 2020 to Member States who had not ratified the 1986 Amendment was regrettable. Moreover, the Workers' group would have valued input from India and Italy, as Members of chief industrial importance that had ratified the 1986 Amendment, on their experience. She invited ILO Members, particularly those of chief industrial importance, to respond to the call in the ILO Centenary Declaration and its accompanying resolution, as reiterated in the 2021 Conference resolution on the principle of equality among ILO Member States and fair representation of all regions in the ILO's tripartite governance.
- 318.** She thanked the Co-Chairpersons for the bilateral discussions they had held, particularly with European countries and Members of chief industrial importance, which would help in

overcoming obstacles to ratification, and supported the extension of the group's duration. As to the proposed additional topics listed in paragraph 12 of the report, she recalled that her group had agreed in November 2020 to the working group's mandate as a framework for targeted dialogue prioritizing the promotion of the ratification of the 1986 Amendment as soon as possible. She supported the recommendation that the Director-General should intensify the promotional activities in relation to the 1986 Amendment at all levels. The Workers' group fully endorsed the conclusions and recommendations set out in paragraph 14 of the report, and supported the draft decision.

- 319. Speaking on behalf of the Government group,** a Government representative of the Philippines said that the Government group was strongly committed to ensuring democratic participation of constituents in the Organization's tripartite governance by promoting fair representation of all regions and establishing the principle of equality among Member States. She welcomed the progress made to pursue the entry into force of the 1986 Amendment. There had been consensus on the proposal to extend the duration of the working group by 12 months, and the Government group would engage in consultations with a view to providing possible items for the agenda of future meetings. It would seek to build consensus on issues that were particularly relevant to the Government group as a whole, such as regional balance, representation of Member States and the participation of the Government group in the decision-making process. The Government group supported the tripartite working group as a consensus-based platform for focused dialogue on the ratification of the 1986 Amendment and other aspects relating to the democratization of the Organization's tripartite governance, and endorsed the draft decision.
- 320. Speaking on behalf of GRULAC,** a Government representative of Chile said that the issues of equality among Member States, fair representation of regional groups and the participation of the Government group on an equal footing with the social partners were crucially important. His group considered that there was an imbalance in the regional and national representation within the current structure of the Governing Body. Certain countries and regions were over-represented, while membership of some other groups overlapped, which sometimes led to inaccurate perceptions of prevailing views. Those were core issues of the mandate of the working group, which should make proposals to the Governing Body on how to address them. He supported the extension of the working group's duration, on the understanding that GRULAC's views would be considered when defining the agendas of future meetings. He supported the draft decision.
- 321. Speaking on behalf of ASPAG,** a Government representative of Australia noted that despite the progress made, more work was needed for the 1986 Amendment to enter into force. At the same time, its entry into force would not necessarily result in full, equal and democratic participation in the ILO's tripartite governance. Although the entry into force of the 1986 Amendment was the current primary focus of the tripartite working group, equality and fair representation of all regions could also be promoted through other independent or complementary actions. The tripartite working group's future agenda could address the full, equal and democratic participation of all members in all ILO bodies, taking account of geographical diversity and factors such as population and labour force size. It could also consider the regional configuration in Government groupings, decision-making processes and the tripartite Screening Group.
- 322.** Despite the fact that Asia and the Pacific had the world's largest concentration of members of the labour force belonging to countries with development challenges, it was under-represented in the ILO Governing Body, where policies to address development issues were discussed and adopted. Improved representation in the ILO's tripartite governance would

contribute significantly to the achievement of the Sustainable Development Goals, particularly Goal 8. The working group's mandate was critical, as it provided the most accessible and practical forum to discuss issues of democratization and to craft practical solutions to address under-representation among ILO Member States. Extension of the working group's tenure was thus imperative and ASPAG supported the draft decision.

- 323. Speaking on behalf of the Africa group,** a Government representative of Uganda said that the Africa group was united in its resolve to prioritize the democratic governance of the ILO through ensuring fair representation of all regions and establishing the principle of equality among Member States. The process of ratification of the 1986 Amendment was almost complete on the continent, with the last four Member States in Africa having completed the parliamentary approval procedure and expected to deposit their instruments of ratification shortly. He called on all constituents to prioritize the democratization of the Organization's tripartite governance, so that the ILO would be better able to shape a future of work that realized its founding vision to foster a more equal and sustainable world. He welcomed the decisions by the Governments of Brazil, the Islamic Republic of Iran, the Philippines and Turkmenistan to provide information on their respective ratification prospects and encouraged them to proceed with ratification. He supported the extension of the working group's duration, and agreed with those in favour of retaining its main focus on the entry into force of the 1986 Amendment. He agreed that more tangible results were necessary and that the Co-Chairpersons should continue to hold bilateral discussions on democratization, particularly with Members of chief industrial importance. The Africa group supported the draft decision.
- 324. Speaking on behalf of the EU and its Member States,** a Government representative of France said that Montenegro, Albania, Ukraine and Georgia aligned themselves with the statement. She said that the EU and its Member States had strongly supported the mandate given to the tripartite working group in the context of the Centenary Declaration. The work it had carried out, including the proposal of the resolution adopted by the Conference at its 109th Session (2021), was commendable. Ratifications of the 1986 Amendment had increased since the issuance of the ILO Centenary Declaration in 2019 and the establishment of the tripartite working group; however, further efforts were required to achieve the working group's objectives. Furthermore, the notion of democratization went beyond the entry into force of the 1986 Amendment: there was a need for a timely and reflective review of the methods through which constituents engaged and how governance structures could be adapted to current and future circumstances. While acknowledging that any expansion of the scope of the tripartite working group's work should be agreed in consultation with all participants and under the leadership of the Co-Chairpersons, she supported the draft decision.
- 325. Speaking on behalf of a group of countries consisting of Austria, Belgium, Croatia, Denmark, Finland, Iceland, Ireland, the Netherlands, Norway, Portugal, Spain, Slovenia, Sweden and Switzerland,** a Government representative of Belgium reiterated their commitment to the tripartite working group as a consensus-based platform for focused dialogue on the ratification of the 1986 Amendment and on other aspects of the democratization of ILO governance. They supported the members and Co-Chairpersons of the tripartite working group in their efforts to work with the Office and Member States to promote the ratification of the 1986 Amendment. They endorsed the draft decision, including the 12-month extension of the tripartite working group's tenure.
- 326. Speaking on behalf of a group of countries consisting of China, the Islamic Republic of Iran, Pakistan and the Philippines,** a Government representative of Pakistan said that, pending the entry into force of the 1986 Amendment, continued attention and advocacy was

essential to achieve the goal of democratization. He welcomed the call to the Director-General to promote the ratification process of the 1986 Amendment. He expressed the hope that the tripartite working group would serve as a platform to address issues such as the multiple representation of some governments in the Screening Group, the speaking rights of observer Member States, and representation in the roles of regional coordinators, the Vice-Chairperson of the Government group and the Chairperson of the Governing Body; it was hoped that the work plan would address all issues related to tripartite governance. Further consultations should be held, including within the Government group, with a view to attaining the goal of full, equal and democratic participation of all constituencies in the ILO governance structure. Furthermore, the tripartite working group should hold more meetings, with more time allocated for in-depth discussions. He supported the draft decision.

- 327. A Government representative of India** reiterated the need to address the representational asymmetry in the regional Government groupings of the Governing Body, as each region currently had one representative, regardless of its population. Moreover, the tripartite Screening Group had one representative each for Eastern and Western Europe, and a representative of IMEC, which was not a geographical region. In order to maintain the trust and confidence of ILO Members, it was essential to preserve objectivity, transparency and neutrality in all ILO bodies, including the supervisory bodies and the Office, through equitable geographical representation, with due consideration of the population and labour force of each region.
- 328. A Government representative of Namibia** expressed the hope that the current Members of chief industrial importance were considering ratification of the 1986 Amendment, and that they would decide to embrace the historic trend to build an ILO that reflected the principles of equity and equality in its internal workings. Her Government was confident that, with concerted effort over the following 12 months, the ILO would be able to fulfil the commitment made unanimously by constituents in the ILO Centenary Declaration. She supported the draft decision.
- 329. A Government representative of Bangladesh** agreed with those advocating for the tripartite working group to expand the issues it discussed and expressed the hope that it would make effective use of its extended tenure to address the ILO's long-standing need for inclusive, transparent and effective democratic governance, and to make it more robust and more democratic in upholding the values of all regions. He supported the draft decision.
- 330. A Government representative of Indonesia** welcomed the consensus regarding the proposed 12-month extension of the tripartite working group with a focus on promoting the ratification and entry into force of the 1986 Amendment. Her Government could be flexible regarding the direction of the working group's discussions. She supported the draft decision.
- 331. The Co-Chairperson of the tripartite working group** affirmed that the group was committed to doing more to pursue democratization over the following 12 months. It would increase bilateral contacts with a range of countries and would continue its work alongside the Director-General. She underscored that, as always, the agenda of the tripartite working group's upcoming meetings would be determined and negotiated in detail with all stakeholders.

Decision

332. The Governing Body:

- (a) **took note of the report of the tripartite working group on the full, equal and democratic participation in the ILO's tripartite governance;**

- (b) decided to extend the duration of the tripartite working group for a period of 12 months, and in this context, invited the Co-Chairpersons to continue to hold consultations, bilateral or otherwise, on the issue of democratization of ILO's tripartite governance;
- (c) requested the Director-General to pursue and further intensify the promotional activities in relation to the 1986 constitutional amendment pursuant to the resolution on the principle of equality among ILO Member States and fair representation of all regions in the ILO's tripartite governance adopted at the June segment of the 109th Session (2021) of the International Labour Conference; and
- (d) requested the tripartite working group to present a final report for consideration at its 347th Session (March 2023).

(GB.344/INS/9, paragraph 15)

10. Results of the ILO Action Plan for Gender Equality 2020–21, action plan-related findings of the high-level independent evaluation of the ILO's gender equality and mainstreaming efforts in 2016–21, and proposed outline of the Action Plan 2022–25 (GB.344/INS/10)

- 333. **The Worker spokesperson** welcomed the progress made under the ILO Action Plan for Gender Equality 2018–21 (Action Plan 2018–21), particularly the inclusion in the Programme and Budget for the biennium 2020–21 of a dedicated policy outcome on gender equality and equal opportunities and treatment, and the integration of gender-responsive strategies in other outcomes. It was regrettable, however, that 35 per cent of the targets had not been met. More work was required, for example, to achieve women's equal representation among ILO staff at the P5 level and above. Although women's education and capacity-building were essential, it was equally necessary to facilitate their participation through concrete activities within the ILO and the broader UN system.
- 334. She encouraged the Office to continue its efforts to bring about programmatic change on gender-responsive outcomes and welcomed the alignment of the action plans with the United Nations System-wide Action Plan on Gender Equality and the Empowerment of Women (UN-SWAP). The improved use of the action plans by ILO staff was commendable. However, gender mainstreaming should be further promoted in institutional interactions and sufficient resources allocated to allow for a more strategic and systematic approach to capacity-building. Furthermore, development cooperation projects could include specific support for constituents' gender equality efforts.
- 335. When developing the ILO Action Plan for Gender Equality 2022–25 (Action Plan 2022–25), the Office should take into consideration the lessons learned from previous action plans and the recommendations of past evaluations. The Workers agreed with the proposed outline for the Action Plan 2022–25. Efforts to promote the ratification and implementation of international labour standards on non-discrimination and gender equality were essential. Social dialogue activities at both the national and international levels should incorporate the promotion of gender equality.
- 336. Noting that the Action Plan 2022–25 should better differentiate efforts aimed at ILO staff from those intended for the ILO constituents, she said that, for internal policies, the involvement of the Staff Union was crucial. The ILO should examine how the Office could better support constituents' efforts to improve women's representation in their delegations to the ILO,

including by addressing the root causes of unsatisfactory contributions in that regard. It might be useful to draw on the experiences of the International Training Centre of the ILO (Turin Centre) to that end. When promoting women's participation, thought should be given to accommodating childcare and family responsibilities. The Action Plan 2022–25 should acknowledge the particular experience of women workers with intersecting identities, such as migrant women and women with disabilities, and the experiences of lesbian, gay, bisexual, transgender and intersex workers, and application forms for activities and jobs should allow for non-binary self-identification. She supported the draft decision.

- 337. The Employer spokesperson** stressed that the ILO should set an example to governments and the social partners with regard to gender equality. Although some improvements had been made, work continued to be required in the areas of oversight, accountability, and capacity assessment and development. In particular, the significant deficit in women's representation in ILO roles at the P5 level and above needed to be addressed and there needed to be greater accountability at the senior level. Rather than establishing a theory of change for gender equality, as proposed in the document, the Office must bring about a culture change, or mindset shift, among the ILO's staff and implementing partners.
- 338.** Turning to the Action Plan 2022–25, she noted that, according to the document, the number of gender specialists in the field was insufficient. Recalling that there had been an increase in the budget for front-line technical services based on the findings of the business process review, she asked whether there had been an increase in the number of gender specialists, and, if not, why. She also asked how the Office's policy departments allocated financial and human resources to gender equality activities and how gender focal points acquired the capacities and resources necessary to support the Office's gender equality infrastructure.
- 339.** The consultants engaged to undertake the independent evaluation of the Action Plan 2022–25 must fully understand the ILO and its tripartite structure. The evaluation must consider whether the Action Plan contained an excessive number of targets, whether those targets were relevant and truly contributed to culture change, and whether its deadlines were realistic. It should also pay specific attention to the Office's efforts to achieve parity in ILO roles at the P5 level and above and any hindrance to gender equality caused by its internal human resource procedures. Priority should also be given to the auditing of internal monitoring procedures and the Office's response to sexual harassment, the results of which must be shared with ILO staff. Although it was curious that the Office had not included a reference in the draft decision to texts such as the ILO Centenary Declaration for the Future of Work or the global call to action, the Employers supported the draft decision.
- 340. Speaking on behalf of ASPAG,** a Government representative of Australia said that the ILO needed to have not only the will but also the institutional capacity to achieve tangible results on gender equality. Welcoming the alignment of the results of the Action Plan with the UN-SWAP categories, she recalled the need to accelerate action on unmet targets and emphasized the importance of the ILO taking a leadership role in realizing its aspirations of gender equality. She welcomed the contribution of the Action Plan 2022–25 to a transformative agenda and its focus on meeting unmet and new targets. Lessons learned must be fully incorporated into the new Action Plan, which must hold all ILO staff accountable for its delivery and focus on the strategic links between headquarters and regional and country offices. She would welcome information on planned capacity-building for field staff that responded to local needs and how that would lead to improvements for constituents.
- 341.** The new Action Plan must benefit from the support of gender specialists and senior management. Support for gender equality action should be tailored to regional and country

needs and the related discussions should enjoy balanced representation. ASPAG expected progress to be made towards the targets of the Action Plan 2022–25 before the Governing Body's next session and would welcome an early progress update that identified links to the discussion on inequalities, the ILO's Strategic Plan for 2022–25 and the Programme and Budget for 2022–23. ASPAG supported the draft decision.

- 342. Speaking on behalf of the Africa group**, a Government representative of Morocco noted that the ILO was well-placed to contribute to equality in the labour market, both among its staff and in its projects on the ground. He would welcome information on the drivers of, and barriers to, progress in the implementation of the Action Plan during the period 2020–21. The high-level independent evaluation had detected two important issues that required clarification, namely uneven results and the need to factor the sustainability of institutional gender equality activities more explicitly into strategies. The nature, content and scope of the proposed theory of change for gender equality should be made clear. His group welcomed the fact that the Action Plan 2022–25 was based on results, ownership, transparency and accountability and allowed adjustments to be made to accelerate progress. Although the proposed indicators were relevant, indicators and targets must have a tangible effect on equality in the world of work. All equality initiatives must take into account the effects of the COVID-19 pandemic. He supported the draft decision.
- 343. Speaking on behalf of IMEC**, a Government representative of Canada said that the Action Plan 2022–25 should take into account all lessons learned and all recommendations and opportunities identified, including those that remained relevant from past evaluations. The previous Action Plan's references to international labour standards and ILO texts on gender equality should be retained. He welcomed the high-level evaluation's recommendation to take a more proactive approach to partnerships and funding opportunities. Examples of how the ILO's work contributed to the objectives of other agencies, such as the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women), would be welcome. The Office should consider relevant external guidance, such as that provided in the 2020 report of the Multilateral Organisation Performance Assessment Network, which had highlighted the need for improved, comprehensive systems within the ILO to prevent and address sexual exploitation and abuse and sexual harassment. He asked how the Office had responded to that guidance. The Action Plan 2022–25 should focus to a greater extent on under-represented groups, such as older women, women with disabilities and women from other vulnerable or marginalized groups.
- 344.** While welcoming the alignment of the action plans with the UN-SWAP categories and the retention of indicators unique to the Organization, IMEC wished to see greater ambition with regard to some targets and encouraged the Office to embed findings from UN-SWAP reports in future evaluations, which should also address why targets were not met. Concerted efforts were needed to address women's continued under-representation in ILO roles at the P5 level and above. The lack of progress in relation to oversight was also cause for concern. He requested an update on the status and results of the audit on internal sexual harassment control and response procedures and any related follow-up. The Action Plan 2022–25 should not only provide clear guidance on underperformance but also encourage custodians of met or exceeded targets to scale up their activities and ambition. He would welcome an update on the delivery time frames for the proposed theory of change and the Action Plan 2022–25 and asked whether any further consultation on them was planned. IMEC supported the draft decision.
- 345. Speaking on behalf of the EU and its Member States**, a Government representative of France said that the following countries aligned themselves with the statement: Montenegro, Albania,

Iceland, Norway, Ukraine and Georgia. The EU supported the ILO's focus on gender equality and also pursued gender equality in its internal policies. The promotion of gender equality and inclusive labour markets was a precondition for ensuring decent work for all and achieving the Sustainable Development Goals. While it was encouraging to note that a greater proportion of the targets of the Action Plan 2018–21 had been met in the final two years than in the first two years, significant work was required to meet targets in the areas of evaluation and gender responsive auditing, and capacity assessment and development. Increased efforts were also still needed to improve women's representation among ILO staff at the P5 level and above.

346. The fact that the ILO had conducted an independent evaluation of its own gender equality and mainstreaming efforts was commendable. She noted with satisfaction the finding that an increased number of staff members were aware of and engaging in the Action Plan 2018–21. However, she also noted the finding that there was a lack of a systemic and strategic institutional approach to support gender equality and mainstreaming across the Organization. She supported the Office's intended actions in response to those findings, including action to increase accountability for outcomes and to ensure broader coherence and multilateral engagement with the wider UN system.
347. The proposed outline for the Action Plan 2022–25 complemented existing initiatives and would contribute to further gender mainstreaming within the Organization. She commended the decision to reduce the number of targets and the consideration given to the resolution and conclusions of the General Discussion Working Party on inequalities and the world of work, adopted by the International Labour Conference at its 109th Session (2021). Efforts must be redoubled to mitigate the disproportionate impact of the COVID-19 pandemic on women and to integrate gender responsive policies as an essential component in long-term recovery plans. She asked when the Action Plan 2022–25 would be presented to the Governing Body for consideration and how that Action Plan would be informed by the Office-wide theory of change for gender equality.
348. **Speaking on behalf of ASEAN**, a Government representative of Indonesia took note of the Office's response to the findings and recommendations of the high-level independent evaluation and welcomed the proposed outline of the Action Plan 2022–25. The Office should address the challenges identified, such as insufficient staff and resources for its implementation, and ensure that the evaluation methodology employed was transparent and reliable. Noting that the widening of the gender equality gap during the COVID-19 pandemic could hinder the achievement of decent work for all, he said that gender mainstreaming had been selected as a thematic area of work for ASEAN labour ministers in the period 2021–25. Those efforts and the Action Plan 2022–25 would contribute to a fair, inclusive and secure world of work for all. ASEAN supported the draft decision.
349. **A Government representative of Ecuador** commended the hard work to implement the Action Plan 2018–21, which had led to progress in gender equality and equal opportunities and treatment in the world of work. She highlighted the steps taken by her Government in that regard, which included its ratification of the Violence and Harassment Convention (No. 190) and Recommendation (No. 206), 2019. Activities should be based on data on discrimination, harassment and violence against women and should promote the restitution of rights and access to compensation. Expressing her Government's ongoing support for the principles of equality and non-discrimination, she endorsed the proposed outline for the Action Plan 2022–25, including the proposal to mainstream gender equality in development cooperation activities and in training for tripartite constituents.

- 350. A Government representative of Indonesia** welcomed the progress made in implementing the Action Plan 2018–21. The ILO's leading role in mainstreaming gender equality in the international labour market, particularly during periods of crisis, required continuous support and enhancement through discussions within the Organization. As the progress on gender equality was somewhat uneven, more attention should be paid to areas where half or fewer of the targets had been met, such as oversight, accountability, and capacity assessment and development. Gender equality and women's empowerment would boost productivity and competitiveness, and his Government therefore fully supported the ILO in ensuring that gender equality was reflected in all its technical work, operational activities and services. His Government supported the draft decision.
- 351. A Government representative of Bangladesh** said that the importance of gender equality to the transformation to a world of decent work should be felt at all levels of the Organization. He noted with concern the unmet targets for the Action Plan 2018–21 in the period 2020–21 and appreciated the fact that the indicators for the Action Plan 2022–25 would be aligned with the relevant elements of the UN-SWAP. He urged the Office to ensure a balanced representation of countries and regions in matters relating to gender equality and to take into consideration in the Action Plan 2022–25 the resolution on inequalities and the world of work that had been adopted by the International Labour Conference in 2021. His Government supported the draft decision.
- 352. A representative of the Director-General** (Deputy Director-General for Policy) agreed with the Workers' group that a differentiated approach was needed for promoting gender equality; accordingly, the indicators in the Action Plan would reflect the opportunities to achieve gender parity among senior staff and to create a supportive organizational culture and the need to set a transformative agenda of substantive work to support constituents. The Staff Union would continue to be briefed on the Action Plan and its indicators.
- 353.** The Action Plan 2022–25 would continue to highlight the importance of education and capacity-building for women in the context of ILO activities and in the broader UN system. For example, indicators would be included on knowledge and communication with the aim of increasing the percentage of women participating in courses and the percentage of men taking courses specifically on gender equality at the Turin Centre. Gender parity in social dialogue, and in decision-making and policymaking, would continue to be encouraged, with the indicator on gender parity in tripartite delegations calling for data disaggregated by region. Member States whose tripartite delegations at the 109th Session of the International Labour Conference had not comprised at least 35 per cent women had been encouraged by the Director-General to increase women's representation. A significant focus in the Action Plan would be strengthening the Global Gender Network, for example by bolstering the terms of reference for gender focal points in the regions and at headquarters, setting out measurable outputs in their work plans and increasing information and knowledge-sharing. The Human Resources Development Department and the Turin Centre were preparing online modules for the course on gender equality and mainstreaming with input from the Gender, Equality, Diversity and Inclusion Branch.
- 354.** She agreed with the Employers' group that the development of a theory of change was a useful tool to bring about gender transformative change but had to be complemented with efforts to change mindset. Collaboration with technical units and specialists when developing the parameters and methodology of the high-level independent evaluation would continue to be a focus of discussion and suggestions would be made for more participatory consultative evaluation methodologies. To address the accountability gap at the senior level, the Action Plan would further disaggregate leadership indicators to provide greater transparency and

more training would be provided for senior managers, including the Global Management Team.

- 355.** Responding to a question by the Africa group, she said that the progress that had been made was a reflection of the commitment of senior management and the leadership of the Director-General. The Governing Body's discussion of the results of the Action Plan for the period 2018–19 had been instrumental and, as a result, initiatives taken by the Office had led to the alignment of four DWCPs in Europe and Central Asia with the Action Plan. She noted that only two of the indicators for human and financial resources had not been met, and eight had been exceeded. There remained room for improvement on effective control measures and the mainstreaming of gender in various types of evaluation. The theory of change would be developed through consultations and was aimed at operationalizing the transformative agenda on gender equality set out in the Centenary Declaration and the global call to action. The theory would set out how policy interventions were expected to lead to specific changes based on causal analysis and evidence.
- 356.** The ILO had had a zero tolerance policy on sexual exploitation and abuse since 2021. The conversion of the Ethics Officer's function to a full-time position from 2022 would be an important contribution to work in that regard. There would be an enhanced focus on staff training, awareness-raising and advocacy. The guidelines adopted in 2021 by the Chief Executives Board for Coordination task force on addressing sexual harassment within the organizations of the UN system were being applied internally in the Organization. Together with the UN Secretariat, the ILO had made a commitment to integrate harmonized language on sexual abuse and sexual harassment into future funding agreements. The field work and workshops for the audit on internal sexual harassment control and response procedures had been completed and the report would be issued in April or May 2022.
- 357.** In terms of work with other UN agencies, she recalled that the ILO was a member of the Economic Justice and Rights Action Coalition and the Global Alliance for Care. In the context of the EU-funded Spotlight Initiative, the ILO worked alongside UN-Women at the country level on the elimination of violence and harassment against women and girls. The ILO, together with UN-Women and the OECD, led the Equal Pay International Coalition.
- 358.** Regional disparities in the unmet targets for results-based management and the need to strengthen the link between headquarters and the field would be tackled through greater transparency and accountability, coupled with capacity-building for ILO management and staff, including the Senior and Global Management Teams. She looked forward to reporting back to the Governing Body at the mid-point of the Action Plan 2022–25.

Decision

359. The Governing Body requested the Director-General to:

- (a) finalize and implement the ILO Action Plan for Gender Equality 2022–25, taking into account the guidance provided during the consideration of document GB.344/INS/10; and**
- (b) integrate its guidance in pursuing the ILO's mandate to achieve gender equality at work through a transformative agenda, taking into account the resolution and conclusions of the General Discussion Working Party on inequalities and the world of work, especially in implementing the ILO's Strategic Plan for 2022–25 and its two corresponding programmes and budgets.**

(GB.344/INS/10, paragraph 27)

11. Report of the Tripartite Working Group on options to ensure decent work in supply chains

(Working group meetings are postponed.)

12. Follow-up to the resolutions concerning Myanmar adopted by the International Labour Conference at its 102nd (2013) and 109th (2021) Sessions: Report of the Director-General on developments in Myanmar, including information on potential follow-up action by the 110th Session of the International Labour Conference (GB.344/INS/12 and GB.344/INS/12(Add.1))

- 360. A representative of the Director-General** (ILO Liaison Officer for Myanmar) provided an update on the deteriorating situation in Myanmar, where workers and trade unionists continued to suffer harassment, attacks and arrest. As of 28 February 2022, at least 1,600 individuals had been killed for opposing the military, thousands more had died during the violence and at least 9,300 remained in detention. The escalating armed conflict had deepened the humanitarian crisis, displacing more than 870,000 persons. More than 14 million people required humanitarian assistance. The combined effects of the military takeover and the COVID-19 pandemic had led to the loss of at least 1.6 million jobs in 2021.
- 361.** The Office report had been published on 25 February and the Permanent Mission of Myanmar had responded on 18 March. The Office stood by its multiple sources of information. It remained gravely concerned at the revocation of the citizenship of the President of the Confederation of Trade Unions Myanmar (CTUM), nine ministers of the National Unity Government and six activists, and at the imprisonment of trade unionists, including the detention of the Secretary-General of the Myanmar Industry, Crafts and Services Trade Union Federation (MICS-TUF) without access to a lawyer.
- 362.** Although the restrictions on the ILO's bank account that had prevented the payment of staff salaries had been lifted, significant restrictions on its ability to pay its implementing partners remained. The Ministry of Labour had expressed a willingness to lift those restrictions provided that the ILO cooperated in tripartite meetings on forced and child labour and on the extension of the memorandum of understanding on the DWCP, and allowed Myanmar's tripartite delegations to attend ILO meetings, including the International Labour Conference.
- 363.** His own visa had been granted and returned to Yangon on 13 March, and those of other ILO international staff members were in an approval process. However, the visa of the Deputy Liaison Officer had yet to be approved, despite two requests to the Ministry of Labour. The ILO's staff members were safe, but Office operations were hindered by the banking restrictions and frequent power cuts of over ten hours per day. It continued to deliver 20 development cooperation projects and adhered to the United Nations country team guidance on engaging with the military authorities. The Committee on Freedom of Association had examined alleged violations of freedom of association in Myanmar at its most recent meeting.
- 364.** The draft decision contained two options: the first would establish a Commission of Inquiry on the non-observance of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Forced Labour Convention, 1930 (No. 29), while the second proposed that at its 110th Session (June 2022), the Conference requests the Committee on the Application of Standards to hold a special sitting on the subject of Myanmar's application of

Convention No. 87 and that the International Labour Conference would engage in a standing monitoring arrangement as of its 111th Session (2023).

- 365. The Worker spokesperson** deplored the systematic violations committed by the Myanmar military and welcomed efforts by some Member States and social partners to pressure it to desist. However, more decisive action was required. The exercise of freedom of association was impossible. The continued and dramatic rise in labour rights violations targeting trade unions and union leaders had forced many to flee the country, compounding the humanitarian challenge at the border with Thailand, where there was no systematic approach to regularizing their status. The military had revoked the citizenship of trade union leaders and activists, rendering them stateless, in clear violation of international law and Convention No. 87. The impact of the crisis on workers included systematic union-busting by factory owners; a breakdown in industrial relations and dispute resolution channels; wages under the minimum wage and worsened working conditions; unjust dismissals; failures to comply with COVID-19 safety measures; unprecedented levels of child labour; and forced overtime, often unpaid. Systematic attacks on healthcare workers and facilities were widespread, and workers in the public sector were routinely threatened if they engaged in civil disobedience.
- 366.** She commended the ILO country team's ongoing work to support social partners in such challenging conditions. The military junta's demand for ILO credentials as a requirement for allowing cooperation activities was deeply troubling. Careful consideration was needed of the value of renewing the memorandum of understanding on the DWCP beyond September 2022 in the absence of a democratically elected government. It was increasingly unlikely that the social partners would be able to act upon the ILO's guidance or support while faced with such high risks. The banking restrictions imposed on the ILO Liaison Office were regrettable. She expressed alarm at the reported use of forced labour by the Myanmar military, including the use of human shields. Such depraved acts, which must be forcefully condemned, went unaddressed owing to the effective breakdown of the National Complaints Mechanism in the wake of the coup. She requested the Office to change the reference to "the Government of Myanmar" in paragraph 43 of the document to just "Myanmar" in line with standard practice, given that the ILO did not recognize the military authorities as the legitimate government.
- 367.** As the resolutions of the International Labour Conference and calls of the Governing Body had not been heeded and the situation had worsened, her group supported the second option of the draft decision, which proposed a special sitting of the Committee on the Application of Standards addressing Myanmar's application of Convention No. 87, and the standing monitoring arrangement. The Workers' group was open to the establishment of a Commission of Inquiry, but several issues must first be resolved, including: how a Commission would coordinate with the military, which was not recognized as a legitimate government; what effect a Commission of Inquiry would have on other actions within the supervisory system regarding Myanmar, as they should not be suspended; how soon a Commission of Inquiry could be established and what the effect on the 110th Session (2022) of the Conference would be. Lastly, the Workers' group proposed to add the following subparagraph to the draft decision:
- (d) deplored the termination of citizenship of prominent democracy activists, including trade unionists, in violation of international law, and called upon Myanmar to immediately restore their citizenship;

- 368. The Employer spokesperson** commended the work of the Office's staff in Myanmar. The crisis appeared to be worsening and becoming entrenched. The reported re-emergence of forced labour, which had been the focus of the Governing Body's engagement with Myanmar prior to the military takeover, was of particular concern. The ILO must take a human-centred approach, focused on the people of Myanmar and their jobs and livelihoods. It must be guided by the

fundamental principles and rights at work, and freedom of association must be upheld at the highest levels in the country. Furthermore, ASEAN would play a critical role; its Five-Point Consensus appeared to be the key mechanism of practical engagement and the most likely to be successful.

- 369.** The Employers' group supported the option of establishing a Commission of Inquiry, which would convey the gravity with which the ILO was addressing the situation. It could begin work quickly and would be more likely have a positive impact. It was not his understanding that the establishment of a Commission of Inquiry would require the suspension of the work of the Committee on the Application of Standards, or any other process, but the Governing Body would need advice on that aspect before taking a decision. The second option, a special sitting of the Committee on the Application of Standards on Myanmar's application of Convention No. 87, was neither practical nor appropriate and might entail lengthy procedural discussions, to the detriment of direct action. The social partners were very likely to include Myanmar on the list of individual cases for discussion by the Committee on the Application of Standards, and the proposed special sitting therefore risked duplicating that discussion.
- 370.** The standing monitoring arrangement proposed in subparagraph (j) of the draft decision was inappropriate and impractical because it would create a new reporting mechanism that required Myanmar to report on the application of all fundamental Conventions, including those not yet ratified. He asked what the constitutional basis for such reporting was; whether that step had ever been taken in other country cases and whether it would set a precedent for future country cases; what the wider implications of applying the ILO Declaration on Fundamental Principles and Rights at Work in that way would be; and whether the raising of such complex and contested matters was necessary and in the best interests of the people of Myanmar and the work of the ILO. The standing monitoring arrangement could prompt discussions on non-ratified Conventions that diluted the urgency of discussions on the violation of Conventions that Myanmar had ratified; if the Governing Body did decide to set up such an arrangement, it should apply to ratified Conventions only. However, the excellent quality of the information on the Myanmar situation provided by the ILO so far suggested that a standing monitoring arrangement was unnecessary. Furthermore, Myanmar had complied with its annual reporting obligations under article 19 of the ILO Constitution in recent years and would be required to respond to the report of a Commission of Inquiry and report regularly on the implementation of its recommendations. The Employers' group supported detailed reporting by the Director-General on freedom of association and forced labour in Myanmar, and the additional subparagraph proposed by the Workers.
- 371. Speaking on behalf of the EU and its Member States,** a Government representative of France said that Turkey, Montenegro, Albania, Iceland, Norway and Switzerland aligned themselves with the statement. She noted that the military coup had halted Myanmar's democratic transition, with disastrous consequences. The continued escalation in violence towards a protracted conflict with regional implications was of grave concern. The EU and its Member States continued to condemn in the strongest possible terms the military's violations of human and labour rights and were particularly concerned at the threats, intimidation and violence against trade unionists, human rights defenders and pro-democracy activists. The EU and its Member States would continue to support ASEAN's efforts to find a peaceful solution, and called on Myanmar to implement fully and rapidly the Five-Point Consensus. Constructive political dialogue, in which the ILO and its constituents played a vital role, must unite all stakeholders.
- 372.** The difficulties encountered by the ILO Liaison Office, other international organizations and non-governmental organizations in carrying out their work were deeply regrettable, and she

commended the ILO's efforts to reprogramme its projects. She urged Myanmar to respect, fully and without delay, its obligations under Conventions Nos 87 and 29. Given the continuous deterioration of the situation, the EU and its Member States felt compelled to support the establishment of a Commission of Inquiry on the non-observance of those Conventions, but would also endorse the establishment of a standing monitoring arrangement relating to all fundamental Conventions. She supported the amendment proposed by the Workers' group.

- 373. Speaking also on behalf Canada**, a Government representative of the United Kingdom unequivocally condemned the human rights abuses and violations taking place in Myanmar. The international community had a solemn duty to hold the military regime to account for its actions. The lack of demonstrable progress since November 2021 was deeply regrettable. She expressed steadfast commitment to the work of the Independent Investigative Mechanism for Myanmar and reaffirmed her support for the ASEAN Five-Point Consensus. She condemned the state of emergency imposed and called for the release of those who had been arbitrarily detained. Reports that the military had sentenced multiple political prisoners to death were a cause of concern. She called on Myanmar to uphold its obligations under Convention No. 87 and to allow the ILO Liaison Office in Yangon to continue its important work without interference. The targeting of healthcare workers and the increased use of forced labour by the military authorities and associated groups were particularly concerning, alongside displacement due to military operations and forced conscription. Unhindered humanitarian access must be ensured. Economic deterioration in Myanmar risked increasing the scale of rights abuses, particularly amongst those most vulnerable; she urged international stakeholders to focus on the rights and empowerment of women and girls, in view of their vulnerability to trafficking. Responsible businesses had an important role to play in the future of Myanmar and markets that were not exposed to the military regime could help create jobs, alleviate poverty and uplift labour standards. The United Kingdom and Canada supported the amendment proposed by the Workers' group and would prefer the option of establishing a Commission of Inquiry, but would also be willing to accept the alternative option.
- 374. A Government representative of China** said that maintaining peace and security in Myanmar served the interests of all parties. Her Government supported the implementation of the ASEAN Five-Point Consensus and called on the international community, including the ILO, to play a constructive role in restoring national and social stability and relaunching the democratic transformation of Myanmar. The Governing Body should create favourable conditions for the reconciliation of parties through dialogue and the protection of the legitimate rights of workers and employers. She noted the efforts made by the Office in that regard. All sides should work together on the implementation of the Myanmar Decent Work Country Programme. She encouraged the Office to enhance communication and coordination with Myanmar and to jointly tackle operative and administrative issues so as to protect the interests of all three constituents.
- 375. A Government representative of the Russian Federation** said that it was important that all involved in the events in Myanmar showed the utmost restraint. He expressed concern at the growth in extremist behaviour among the opposition, in a context of reduced protest activity and gradual stabilization of the situation in the country. Despite serious challenges, including the pandemic, the authorities had done their utmost to fulfil their obligations under ILO Conventions, with particular progress on eliminating child labour and strengthening social dialogue. The main task of the ILO was to provide assistance in bringing national legislation into compliance with international labour standards, while avoiding interference in internal affairs. Attempts to use the platform of the ILO to politicize the discussion on Myanmar were counterproductive. Paragraphs 8 and 28 of the document prepared by the Office appeared to

call for international recognition of the National Unity Government, which constituted interference in an internal political conflict. Paragraphs 11 and 26 referred to unemployment, but did not mention that economists considered it to be the consequence of unilateral sanctions imposed by the United States. The decision not to accredit delegates representing Myanmar at the International Labour Conference would have a negative impact on the country's cooperation with the ILO. He called on the Office and Members of the Organization to uphold the principle of neutrality and not to introduce elements that went beyond the framework of the supervisory system and national labour, social and economic legislation. Politicization would prevent countries from implementing decisions and the use of the ILO as an instrument for political pressure risked undermining the Organization.

- 376. A Government representative of Japan** expressed deep concern at the situation in Myanmar and urged the military to immediately stop the violence, release detainees, including State Counsellor Aung San Suu Kyi, and restore the democratic political system. The ILO was fulfilling its mandate by demanding that workers and employers should be allowed to perform their functions without threats and to exercise their freedom of association. He commended the Office's efforts to maintain the provision of technical assistance to workers' and employers' organizations, and urged the military to stop interfering in its operations. Reports of the use of forced labour were also concerning; the military authorities must cease such activity. The Governing Body should closely follow developments in Myanmar through a report from the Director-General at its 345th Session. His Government could accept either option for the draft decision and supported the amendment proposed by the Workers' group.
- 377. A Government representative of the United States** noted that violence by the military authorities continued unabated and killings, detention and displacement had resulted in an environment that was not conducive to decent work or sustainable enterprises. There were increased reports of the use of forced labour by the military regime, and it had revoked the citizenship of the President of the CTUM. The perpetrators of violence and unjust actions must be held accountable. Her Government stood firmly in support of all those under attack for exercising their basic worker and human rights and those struggling for a return to democracy. As conditions continued to deteriorate more than a year on from the coup, it was vital to escalate support for the ILO's stakeholders in the country and their struggle for rights and democracy. Her Government supported the option to establish a Commission of Inquiry. Recent comments by the supervisory bodies and the long-running discussion and condemnation by the Governing Body provided sufficient grounds to take that immediate and significant action. She noted that the Governing Body had in three cases in the past initiated the article 26 procedure leading to the establishment of a Commission of Inquiry. She also supported the amendment proposed by the Workers' group.
- 378. A Government representative of Australia** condemned in the strongest terms the ongoing human and labour rights emergency in Myanmar and called for the cessation of violence, for immediate unimpeded access for the delivery of humanitarian assistance and for the military regime to engage in inclusive dialogue on a peaceful return to democracy. The loss of progress on poverty reduction and on development in the country was a cause of deep concern. He called for the release of all those who were arbitrarily detained, including the country's civilian leadership. Those violations were contrary to the obligations of Myanmar as a Member of the Organization to uphold and protect freedom of association and the right to organize. His Government supported efforts to prevent the flow of arms and equipment into Myanmar and to stop technical assistance to the armed forces, as called for in UN General Assembly resolution A/RES/75/287. Reports of the increased use of forced labour by the military authorities and other armed groups were particularly concerning. He supported the ILO's

efforts to monitor and report forced labour along with the Independent Investigative Mechanism and the work of ASEAN and UN special envoys to support implementation of the Five-Point Consensus. He urged the military regime to cease impeding the activities of the ILO, other international agencies and civil society organizations seeking to safeguard labour rights in Myanmar. He praised the staff of the ILO Liaison Office for their work and endorsed its approach to its projects. The focus on the economic empowerment of women and girls and efforts to combat child and forced labour were particularly notable. His Government considered that both options for the way forward had merit and would welcome the views of other constituents.

- 379. A representative of the Director-General** (Legal Adviser), responding to questions from the Workers' group, said that it would not be unprecedented to establish a Commission of Inquiry for a country whose government was not recognized by the ILO and to maintain an institutional dialogue with such a government for the strict purposes of the standards supervision. At present, regular supervision continued in Myanmar despite the military coup with an active case pending before the Committee on Freedom of Association and an observation regarding the application of Convention No. 87 published at the last session of the Committee of Experts. However, it was important to note that keeping communication channels open, on need basis, with the military authorities currently in power did not imply explicit or implicit recognition of them as the legitimate government. As the military authorities effectively controlled the country and exercised prerogatives of public power, they were answerable for the alleged non-compliance with obligations arising from ratified ILO Conventions. More generally, under paragraph 82 of the Manual of Operations of the Special Procedures of the Human Rights Council, working with de facto authorities did not imply recognition, particularly on human rights matters. As an example, the instructions for UN agencies on engagement with Sudan provided for communication with the de facto authorities only when necessary to secure compliance with human rights obligations. As to the impact of a Commission of Inquiry on other supervisory mechanisms, he explained that the established practice was all other ongoing supervisory system procedures would indeed be suspended as soon as a Commission of Inquiry was officially constituted. In the case at hand, in practical terms, the Commission of Inquiry could not be established before the Governing Body session in June 2022 and a number of administrative steps would be required before the Commission's members could start their work, therefore the likely discussion of the "double-footnoted" case of Myanmar at the Conference Committee on the Application of Standards could still take place in June 2022.
- 380.** As to the question from the Employers' group on whether there was a precedent for the proposed standard monitoring arrangement, he responded that there was a precedent in two resolutions on South Africa dating from 1964 and 1981, where the Conference first held a special sitting and later established a standing Committee on Apartheid as of 1981.
- 381. The Worker spokesperson** welcomed the fact that most speakers recognized the seriousness of the situation. The clarification provided by the Legal Adviser that the ILO could communicate with the de facto authorities was reassuring. She requested further clarification of whether a permanent monitoring mechanism would be considered part of the supervisory system. As a Commission of Inquiry would realistically be established only after the next session of the Conference, it did not have any effect on the urgent need to address the matter within the Committee on the Application of Standards.
- 382.** She added that she had just received a message stating that Aung Ko Latt was in fact still alive.

- 383. The Employer spokesperson** said that he joined in the observation that almost all speakers had recognized the gravity of the situation in Myanmar. He observed that the Governing Body appeared to prefer option 1 for subparagraph (i), on the establishment of a Commission of Inquiry, or could support either option. Subparagraph (j) could only be considered in the light of information on the implications of subparagraph (i). He welcomed the news that Aung Ko Latt was still alive and noted the difficulties of obtaining reliable information from Myanmar.
- 384. The representative of the Director-General** (Legal Adviser) said that an ad hoc arrangement such as a standing monitoring arrangement would form part of the ILO's supervision of standards in the broad sense, as it would work to bring about full compliance with standards. If retained, such an arrangement would require a short draft resolution to be submitted to the 110th Session of the Conference for possible adoption.
- 385. The Chairperson** confirmed that the reference to the killing of Aung Ko Latt would be removed from subparagraph (b) of the decision, which would instead read: "the arrest and torture of Aung Ko Latt". She noted the Governing Body's support for the amendment of the Workers' group.
- 386. The Director-General** observed that he understood that the Governing Body wished to adopt the first option of subparagraph (i), to establish a Commission of Inquiry. In the light of the explanation provided by the Legal Adviser, the standing monitoring arrangement proposed in subparagraph (j) was part of the supervisory mechanism and, owing to the suspensive effect of the Commission of Inquiry, would no longer apply; the draft decision would therefore end with the first subparagraph (i).
- 387. The representative of the Director-General** (Legal Adviser) added that, in accordance with article 5.5 of the Standing Orders of the Governing Body, the Governing Body could not take a decision involving expenditure without first considering its estimated cost and making provision for the necessary expenditure. The Office would therefore prepare an addendum detailing the estimated cost for the Governing Body's consideration.
- (The discussion was adjourned.)*
- 388. The Chairperson** said that the Office had prepared an addendum to the document, detailing the financial implications of the creation of a Commission of Inquiry. As a result, the Governing Body had before it a revised draft decision in the main document and a draft decision in the addendum.
- 389. The Employer spokesperson** expressed support for both draft decisions.
- 390. The Worker spokesperson** said that her group could support the revised draft decision provided that the Commission of Inquiry were not formally established before the 345th Session of the Governing Body. She endorsed the draft decision in the addendum.

Decision

- 391. In the light of the developments in Myanmar outlined in document GB.344/INS/12 and recalling the resolution for a return to democracy and respect for fundamental rights in Myanmar adopted by the International Labour Conference at its 109th Session (2021), the Governing Body:**
- (a) **deplored the lack of progress towards respecting the will of the people, democratic institutions and processes, and the fact that the democratically elected government has not been restored;**

- (b) noted with profound concern the escalation of large-scale lethal violence against civilians, including children, and the arrest and torture of Aung Ko Latt, a member of the Mahlwagone Railway Union, and called on the military to end such action immediately;
- (c) deplored the continued harassment, intimidation and arbitrary arrests and detentions of labour activists, trade unionists and others, including the Rohingya, in the exercise of their human rights, and repeated its call to the military authorities to cease such action immediately;
- (d) deplored the termination of citizenship of prominent democracy activists, including trade unionists, in violation of international law, and called upon Myanmar to immediately restore their citizenship;
- (e) expressed grave concern that there has been no demonstrable progress towards removing banking restrictions imposed on the ILO Liaison Office and urged the military authorities to desist immediately from such interference and to respect the status of the Office, in accordance with the provisions of the Convention on the Privileges and Immunities of the Specialized Agencies of 21 November 1947;
- (f) repeated its call for Myanmar to uphold immediately its obligations under the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and to ensure that workers' and employers' organizations are able to exercise their rights in a climate of freedom and security, free from violence, arbitrary arrest and detention, and again called for the immediate release of the General Secretary of MICS-TUF and other trade unionists and activists who have been detained;
- (g) repeated its profound concern over reports of increased use of forced labour by the military authorities and the fact that progress towards the elimination of forced labour has reversed since the military takeover, and called for the military authorities to end forced labour practices immediately;
- (h) repeated its call for the Civil Services Personnel Law, the Settlement of Labour Disputes Law and the Labour Organization Law to be amended without delay, in line with Convention No. 87, once the country returns to democracy;
- (i) requested that the Director-General report to its 345th Session (June 2022) on developments in Myanmar; and
- (j) decided in accordance with article 26(4) of the ILO Constitution to establish a Commission of Inquiry in respect of the non-observance of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Forced Labour Convention, 1930 (No. 29).

(GB.344/INS/12, paragraph 47, as amended by the Governing Body)

392. Should the Governing Body decide to appoint a Commission of Inquiry concerning Myanmar, it further decides that:

- (a) an honorarium at the rate of US\$350 per day be paid to each member of the Commission of Inquiry; and
- (b) the cost of the Commission, which is estimated at US\$966,984, be financed in the first instance from savings that may arise under Part I of the budget for 2022–23 or, failing that, through the use of the provision for unforeseen expenditure, in Part II.

Should this not prove possible, the Director-General would propose alternative methods of financing at a later stage in the biennium.

(GB.344/INS/12(Add.1) paragraph 4)

13. Report by the Government of Bangladesh on progress made on the implementation of the road map taken to address all outstanding issues mentioned in the complaint concerning alleged non-observance of Conventions Nos 81, 87 and 98

(GB.344/INS/13(Rev.1))

- 393. A Government representative of Bangladesh** said that his Government was committed to the implementation of the road map taken to address all outstanding issues mentioned in the complaint concerning alleged non-observance of the Labour Inspection Convention, 1947 (No. 81), Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) and Right to Organise and Collective Bargaining Convention, 1949 (No. 98). Despite the serious challenges and delays caused by the COVID-19 pandemic, work towards the implementation of the road map had continued. Financial support had been extended to the country's workforce during the pandemic. Workers in the export-oriented garments industry in particular had received support, and vaccines had been administered for workers in the ready-made garment and other export-oriented industries.
- 394.** The Employment Injury Insurance Scheme would be piloted shortly, which would grant additional financial coverage for workers involved in workplace accidents or injuries. Progress towards the elimination of child labour included the submission in the coming days of the instrument of ratification for the Minimum Age Convention, 1973 (No. 138), the development of a national plan of action against child labour in line with national commitments under the 2030 Agenda for Sustainable Development and the expansion of the list of hazardous jobs for children. The work to amend the Bangladesh Labour Rules and develop the Export Processing Zones Labour Rules had been finalized and had included extensive tripartite consultations, taking account of comments of the relevant ILO supervisory bodies. The provisions covered related to investigations into anti-union activities, the formation of workers' and employers' organizations and the elimination of gender-based violence and harassment. Both sets of rules would be revisited once the relevant provisions had been amended, taking into consideration feedback from social partners.
- 395.** Regarding the recruitment of additional labour inspectors, a number of new entrants were being trained and would shortly join the Department of Inspection of Factories and Establishments. Work was also under way to fill vacant posts in that Department through promotions, and discussions were being held with the Ministry of Public Administration and the Ministry of Finance to sanction the creation of additional posts. The Bangladesh Export Processing Zone Authority and the Department of Inspection of Factories and Establishments continued to operate their respective helplines and were developing a set of checklists for the formalization of factory inspections inside export processing zones, based on the modalities projected in the road map. A workplace safety unit within that Department would be established, and the authorization of its labour inspectors to impose administrative fines during inspections would be considered.
- 396.** With regard to trade union registration, a comprehensive, automated system had been established and would soon be operationalized in parallel with the offline registration system to ensure transparency and efficiency. Training in the online registration system was provided

by the Department of Labour for its own officials and for the social partners. While a recurrent pattern of complaints regarding anomalies in the trade union registration process was noted, such complaints were often partial or one-sided narratives. In 2021, the majority of applications for trade union registration had been accepted. A standard operating procedure for conciliation of industrial disputes was being developed with the social partners. Concerning the recent additional allegations submitted to the ILO in connection with Case No. 3263 before the Committee on Freedom of Association, he said that all mentioned instances included violence, vandalism or obstruction of national highways, in response to which the law enforcement authorities had sometimes resorted to the use of non-lethal weapons to protect the public, and actions had been brought against certain individuals involved.

397. He recalled that the Tripartite Implementation and Monitoring Committee, which included representation of the social partners, remained in place to provide oversight and guidance on the implementation of the road map, and met on an ad hoc basis. A Reform Implementation Coordination Unit had also been established for the coordination of the implementation of the road map.
398. **The Worker spokesperson** said that it was regrettable that no meaningful progress had been made in implementing the road map, and that the Government did not appear to be seriously committed to addressing the issues raised in the complaint in a comprehensive and timely manner. It rather seemed that the Government approached this as a box-ticking exercise, which was consistent with the Government's past refusal to comply with other road maps, including the ILO's Bangladesh Sustainability Compact. Had the Compact been implemented, the Governing Body would not be addressing the same issues; instead, the climate was deteriorating with regard to trade union rights and workers' protection. In view of recent police crackdowns on protesting workers and prevention of trade union meetings, her group was concerned that such events were not investigated and perpetrators went unpunished, entrenching the existing impunity of the police and security forces. The timeline for commencing rapid and thorough investigation of alleged cases of violence and harassment by the police against workers was in 2021. However, no steps had been taken to address in a meaningful way the police violence during the Ashulia strikes of 2017–2019, nor to implement the recommendations of the Committee on Freedom of Association to institute an independent inquiry into those events, which were central to the complaint under article 26 of the ILO Constitution.
399. The report showed no meaningful progress with regard to the sensitization of managers and security staff on how they could support the investigations, and regular training for all personnel handling cases of alleged acts of violence and harassment against workers. Workers were arrested for exercising their labour rights, and no mechanism was in place to ensure legal support or prompt reinstatement for workers who were unfairly dismissed. Information submitted recently by the ITUC to the Committee on Freedom of Association in that regard involved charges against the General Secretary of a union who had assisted workers in forming unions in factories.
400. There had been no meaningful progress on other action points. The Office had received information that certain relevant sectoral unions which were members of committees set up pursuant to the road map were not given reasonable notice for their representation at committee meetings and did not receive preparatory documents, while the Government extended invitations to their employer counterparts and investors. She recalled that consultations must be meaningful, tripartite and not discriminatory, and urged the Government to request ILO technical assistance in order to ensure that such committees functioned properly.

401. Regarding action point 1 on labour law reform, according to reports, trade union proposals for amendments to the Bangladesh Labour Rules had not been taken into account. Her group was concerned that the Government might suggest that any non-compliance with the comments of the Committee of Experts on the Application of Conventions and Recommendations was a result of tripartite consensus, and recalled that Government was obliged to comply with ratified Conventions. The Government's apparent lack of serious dedication was regrettable and indicated that the amended Bangladesh Labour Rules and the Export Processing Zone Labour Rules would once again fail to comply with Conventions Nos 87 and 98.
402. In respect of action point 2 on trade union registration, contrary to the Government's report, the Office had received information that, inter alia, trade unions were not involved in the design of the online registration system and had not been consulted on ways to simplify the process. The Government continued to use registration as a means of interfering with freedom of association, contrary to Convention No. 87.
403. No progress had been made under action point 3 on filling vacant posts for labour inspectors and the creation of new posts and recruitment of labour inspectors. No modalities for carrying out inspections in the export processing zones had been discussed with social partners and no information on unannounced visits had been provided to them. The report did not indicate whether the strategic inspection plan had been discussed with social partners or whether a national occupational health and safety system had been promoted. Trade unions or workers' representatives were not included in the selection process for occupational safety and health committees at factory level and industrial accidents were on the increase.
404. While her group welcomed the establishment of new courts and the appointment of judges, the lack of proper training on labour law and absence of court processes to ensure speedy and effective trials resulted in delays, which seriously undermined delivery of justice for workers. It was regrettable that no progress had been made regarding the development of a standard operating procedure for conciliation and arbitration of labour disputes through tripartite consultations and with ILO technical support. The arbitrators panel to be established by the Government must be part of an alternative dispute resolution mechanism, as the Department of Labour focused on labour administration and was not adequate to address labour complaints systematically. The lack of progress on follow-up of complaints was therefore unsurprising.
405. With regard to action point 4 on preventive measures, no meaningful progress had been made in addressing unfair labour practices. The processing of complaints was slow and standard operating procedures inadequate. Furthermore, a recent court ruling had determined that workers and unions could no longer file unfair labour practice cases directly with the labour courts. The Department of Labour was mandated to initiate all processes further to complaints, but its lack of capacity meant that many complaints were not addressed. Progress was also inadequate with regard to social dialogue, and trade unions were not benefiting from training on trade union registration.
406. It was clear that no substantive progress had been made in the implementation of the road map and her group expected the Government to make efforts to consult with trade unions and act on ILO advice to implement it. Her group supported the draft decision.
407. **The Employer spokesperson** noted the final road map submitted by the Government of Bangladesh in May 2021, developed in consultation with the ILO, the ITUC, the International Organisation of Employers and the national social partners, which addressed four priority areas. Her group welcomed the fact that the Government had reported its progress on the road map in a timely manner, in line with the Governing Body decision of November 2021. The

information provided under each priority area of the road map was comprehensive and many of the actions taken included consultation with the social partners. The progress report had been discussed with the social partners at the Tripartite Implementation and Monitoring Committee meeting in February 2022. Her group noted progress made in tripartite discussions to finalize the amendments to the Bangladesh Labour Rules and the Export Processing Zones Labour Rules, and meetings held with the ILO to develop standard operating procedures for conciliation and arbitration of industrial disputes.

- 408.** Noting that the Government faced ongoing challenges, her group hoped that it would continue to provide updated information on Case No. 3203 before the Committee on Freedom of Association, an urgent case concerning anti-union violence, and to follow the recommendations of the Committee to address the allegations in a timely manner. Her group trusted that the Government would continue to report to the ILO on its progress on the road map and make progress in upholding labour rights and improving workplace safety. Her group was committed to assisting the Government of Bangladesh in the implementation of the road map and other associated initiatives. Her group supported the draft decision.
- 409. Speaking on behalf of the EU and its Member States,** a Government representative of France said that Montenegro, Albania, Iceland and Norway aligned themselves with her statement. She supported the Office's commitment to the promotion of labour rights in Bangladesh and welcomed the submission of the progress report. She welcomed the progress made, including the tripartite discussions for the finalization of the Bangladesh Labour Rules and development of the Export Processing Zones Labour Rules, digitalization of trade union registration, training of labour inspectors and establishment of additional safety committees in factories across the country.
- 410.** However, noting the six-month delay in the amendment of the Bangladesh Labour Rules, she expressed concern that the Government of Bangladesh was not respecting the deadlines for several actions in the road map. Welcoming the discussions on the progress made at the Tripartite Implementation and Monitoring Committee, it nevertheless fell to the Government of Bangladesh to ensure compliance with ratified international labour standards in law and in practice.
- 411.** The EU and its Member States were committed to cooperating with the Government of Bangladesh in partnership with the ILO. Her group worked in cooperation with the Government in implementing labour standards and was monitoring the implementation of the national action plan on the labour sector 2021–2026, finalized in 2021 within the framework of the EU Everything but Arms initiative. That national action plan and the road map under discussion were mutually reinforcing, as they emphasized the fundamental importance of compliance with ratified ILO Conventions. It was essential that both instruments should be implemented within the time frame set out, and she called on the Government to fulfil its commitments in a timely fashion. The protracted timelines for certain of the commitments were a matter of concern, as regular monitoring was needed to note progress in the implementation of the road map. The EU and its Member States supported the draft decision.
- 412. A Government representative of India** welcomed the labour law reforms undertaken by the Government of Bangladesh, which had led to a significant increase in trade union registration, labour inspection and measures against anti-union discrimination and unfair labour practices, including legal and administrative reforms to improve trade union activities. The adoption of policies for workers' protection demonstrated the Government's commitment to ensuring workers' rights. She welcomed the revision of the national action plan to implement the elimination of child labour policy, in consultation with tripartite constituents and civil society.

The Government of Bangladesh should be supported in its efforts to achieve the results of such transformative reforms and to strengthen employment and labour market policies.

- 413. A Government representative of the United States** expressed concern that the Government of Bangladesh had not taken measures to address the issues raised in the complaint. She urged it to accelerate implementation of the road map in all four priority areas. It was regrettable that the Government was not adhering to the timeline for amending the Bangladesh Labour Rules and Bangladesh Labour Act. While it reported that the procedures relating to the issuance of the Export Processing Zones Labour Rules were tripartite, unions reported that they were excluded from those. She urged the Government to include independent unions alongside employers in the labour law reform process and to end the long-standing exclusion of unions from export processing zones.
- 414.** While the Government reported on improvements to the trade union registration process, worker groups had reported that officials from the Department of Labour did not follow standard operating procedures but delayed the registration process for unions. Furthermore, there was no indication of progress on several issues long raised by the Committee of Experts relating to the application by the Government of Bangladesh of Convention No. 81. In addition, unions reported a lack of progress in addressing the backlog of cases in labour courts. She urged the Government to publish its investigation into the fatal fire in the Hashem Food and Beverage factory in July 2021, and to examine how improvements in labour inspection could prevent such tragedies in the future. The report did not indicate progress in ensuring accountability of perpetrators of acts of anti-union discrimination, unfair labour practices and violence against workers, or in investigations into alleged cases of violence and harassment by the police against workers and unions. Unless the Government could demonstrate significant progress in the implementation of the road map, the case at hand would merit the establishment of a Commission of Inquiry when a decision on further action was taken at the November 2022 session of the Governing Body. She supported the draft decision.
- 415. A Government representative of China** welcomed the positive attitude of and the concrete actions taken by the Government of Bangladesh to implement the road map, which had led to substantial progress. The ILO should continue to maintain communication and coordination with the Government of Bangladesh, and to provide the necessary support. The case should be closed as soon as possible. He supported the draft decision.
- 416. A Government representative of Morocco** said that the progress made by the Government of Bangladesh in the implementation of the road map demonstrated its willingness to achieve the objectives of the road map in collaboration with the social partners and with support from the ILO. He encouraged the Government of Bangladesh to pursue its efforts to address the complaint in question.
- 417. A Government representative of Canada** acknowledged that the Government of Bangladesh had made some modest progress to improve working conditions since the previous Governing Body session. Its recent ratification of the Protocol of 2014 to the Forced Labour Convention, 1930, and its stated intention to ratify Convention No. 138, were welcome. However, the slow pace of labour law reforms remained seriously concerning. He urged the Government of Bangladesh to be more ambitious in its timeline to enact those reforms. It should also intensify efforts to prevent anti-union violence and harassment, investigate incidents when they occurred, and implement sanctions to deter offenders. Freedom of association could only be fully exercised in a climate free from violence, pressure and threats of any kind. He encouraged the Government of Bangladesh to continue its close cooperation with the Office and all social partners, which was essential for the implementation of the road map, and hoped that it would

report additional significant progress at the next Governing Body session. He endorsed the draft decision.

- 418. A Government representative of Cameroon** welcomed the work carried out by the Government of Bangladesh on capacity-building, labour inspection, the application of standards and addressing acts of anti-union discrimination. The Office should continue to support the Government of Bangladesh as it undertook efforts to improve tripartite social dialogue in the country.
- 419. A Government representative of the Russian Federation** said that the Government of Bangladesh had made serious headway in complying with the requirements in the road map and had taken a number of tangible measures to bring its national legislation into line with international standards. The ILO should be guided first and foremost by the principle of encouraging and helping countries rather than exerting political pressure on them. It was necessary to support further efforts to promote social justice and to enhance social dialogue in Bangladesh.
- 420. A Government representative of the Islamic Republic of Iran** said that the measures taken by the Government of Bangladesh demonstrated its willingness and commitment to improve the labour situation in the country, and that such action and achievements merited the consideration of the Governing Body members.
- 421. A Government representative of Pakistan** said that the economic and social impact of the pandemic on developing countries had been disproportionate and had increased difficulties for workers in both the formal and informal sectors. Due consideration should therefore be given to the fiscal constraints faced by developing countries, including Bangladesh, in managing the socio-economic impacts in the world of work. In light of the complexity of such challenges, concerns and complaints should be addressed amicably in the spirit of tripartite cooperation.
- 422. A Government representative of Algeria** welcomed the advances made in tripartite consultations since the submission of the first report, and the preventive measures adopted by the Government of Bangladesh to step up the fight against acts of anti-union discrimination, unfair labour practices and violence against workers, particularly through targeted training and awareness-raising actions, and the strengthening of institutional mechanisms. The Office should increase its provision of technical support to the Government of Bangladesh to accelerate the implementation of the road map.
- 423. A Government representative of Oman** encouraged the Government of Bangladesh to continue working as it had been doing with the social partners to ensure proper protection for workers and their rights. The ILO should close the case and continue to provide assistance to the Government of Bangladesh to enable it to implement all the provisions in the road map and make decent work a reality.
- 424. A Government representative of Cuba** noted the progress made on the implementation of the road map and the willingness of the Government of Bangladesh to continue to promote tripartite social dialogue in the country and cooperation with the ILO. She reiterated the importance of granting governments the time and space necessary to work together with the relevant stakeholders, and within the framework of their national legislation, to fulfil their obligations and commitments under ILO instruments. The case of Bangladesh demonstrated how much could be achieved on labour issues through negotiations and continued assistance and cooperation. The points raised by the Government of Bangladesh in its report should be taken into consideration with a view to closing the case.

- 425. A Government representative of Bangladesh** disagreed with the Workers that his Government had approached the implementation of the road map as a box-ticking exercise. The presence of two members of the Cabinet of Bangladesh contradicted such an assertion. Regarding the background to some of the recent cases mentioned, in which the law enforcement authorities had resorted to non-lethal means to disperse unruly and vandalizing crowds, there had been no reason to target any particular individual, but the law of the land was mandated to deal with any person allegedly involved in law-and-order situations. The Bangladeshi law enforcement authorities were trained to conduct meaningful tripartite consultations to ensure that no situation became out of control. The Government of Bangladesh remained committed to ensuring compliance with the relevant ILO Conventions. The work on further amending the Bangladesh Labour Act, 2006, was on track to be completed within the stipulated time frame. The Workers had made some broad-based comments about the trade union registration system that hardly corresponded to the actual situation on the ground, which they were invited to verify at their earliest convenience. The tripartite consultative mechanism was invoked whenever it was mandated and required, especially in connection with legal reforms. The road map had not necessarily envisaged that all procedural and internal administrative issues would have to be consulted in a tripartite framework. Details of the outcome of any such exercise would be accessible to all, and the Bangladeshi authorities remained open to further consultations, including within the Tripartite Implementation and Monitoring Committee.
- 426.** It appeared that certain quarters were keen to complain to their international partners, instead of engaging in real terms with government and other constituents at the local level. He thanked the EU delegation for referring to his Government's meaningful engagement with the Global Deal Initiative. The concerns raised over inadequate training on labour laws for labour court judges were unsubstantiated, but would be examined in order to address any possible gaps. The Government of Bangladesh was working together with national labour courts to explore ways to address the existing backlog of cases. It was also working to resolve the various allegations related to Case No. 3203 pending before the Committee on Freedom of Association, and it was hoped that the progress already made with some of these cases would continue to be replicated in the others. There was little that his Government could do as far as the independent judiciary was concerned. Established judicial and administrative measures were in place to ensure due investigations into the alleged violation of or digression from its international obligations under the relevant ILO Conventions. It did not necessarily help to question such investigations if the outcomes did not conform to the expectations of one party or the other.
- 427.** His Government had submitted a detailed report to ensure a comprehensive account of all the work being done. It would be willing to submit a more succinct report, but would risk facing criticism for not being sufficiently transparent and holistic. He requested the Governing Body to guide it on the right way forward in that regard. His Government strongly believed that the present case was unfair and unjust, and that unkind and maligning propaganda had been used against it on unrealistic grounds. However, it remained convinced that good sense would prevail and that, given the steady progress made with the road map implementation, the case would be closed in an informed and judicious manner. There was no reason to assume that his Government would allow for any deviation from a commitment that it had undertaken through a national-led process in the long-term interest of reforming the real economy of its labour sector.
- 428. The Employer spokesperson** said that, in the current situation, the glass could be seen as being either half empty or half full. The Employers wished to stress the need for a realistic, but

also positive and constructive, evaluation and appreciation of the progress made by, and the remaining challenges for, the Government of Bangladesh. The changes being made were major and would take time. Even if there was still a long way to go, the progress achieved so far should not be overlooked by the Governing Body.

- 429. The Worker spokesperson** said that, from her group's perspective, the glass was neither half full nor half empty. There were very serious issues to be addressed. The Workers were pleased that a road map had been agreed and simply wanted to see more real progress on the ground.

Decision

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

- (a) **took note of the Report by the Government of Bangladesh on progress made on the timely implementation of the road map intended to address all outstanding issues mentioned in the complaint concerning alleged non-observance of the Labour Inspection Convention, 1947 (No. 81), the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98);**
- (b) **requested the Government of Bangladesh to report on further progress made at the 346th Session (November 2022) of the Governing Body; and**
- (c) **decided to defer the decision on further action in respect of the complaint to that session.**

(GB.344/INS/13(Rev.1)), paragraph 8)

14. Assessment of progress made by the Government of the Bolivarian Republic of Venezuela in ensuring compliance with the recommendations of the Commission of Inquiry and, in light of that, consideration of all possible measures, including those foreseen in the ILO Constitution, for this purpose (GB.344/INS/14(Rev.1))

- 431.** The Governing Body had before it an amendment to the draft decision, which had been proposed by the Workers' group. The Employers' group and the Government of the United States had proposed subamendments to that amendment. The amendments and subamendments had been circulated by the Office to all groups.

- 432.** The text proposed by the Workers' group read:

In light of the foregoing, the Governing Body:

- (a) took note of the installation of the social dialogue forum;
- (b) requested the Director-General to present a report to its 345th Session (June 2022) on any progress concerning the operation of the social dialogue forum in giving effect to the recommendations of the Commission of Inquiry.

- 433.** The text as subamended by the Employers' group read:

In light of the developments in Venezuela outlined in document GB.344/INS/14(Rev.1) and taking into consideration its decision of March and November 2021, the Governing Body decided to:

- (a) deplore that the Government has not yet accepted the recommendations of the report of the Commission of Inquiry two years after its adoption;
- (b) take note of the installation of the social dialogue forum;
- (c) request the Director-General to engage with the Government to:
 - (i) ensure that the recommendations of the Commission of Inquiry are accepted no later than April 25, date of the next meeting of the social dialogue forum;
 - (ii) ensure the full implementation of the recommendations of the Commission of Inquiry and the effective application of Conventions Nos 26, 87 and 144 in law and in practice;
- (d) request the Director-General to present a report to its 345th Session (June 2022) on any progress concerning the operation of the social dialogue forum and on the acceptance and implementation of the recommendations of the Commission of Inquiry.

434. The proposed subamendment submitted by the Government of the United States read:

In light of the developments in Venezuela outlined in document GB.344/INS/14(Rev.1) and taking into consideration its decision of March and November 2021, the Governing Body decided to:

- (a) regret that the Government has not accepted the recommendations of the Commission of Inquiry;
- (b) take note of the installation of the social dialogue forum;
- (c) request the Director-General to engage with the Government toward:
 - (i) the full implementation of the recommendations of the Commission of inquiry and the effective application of Conventions Nos 26, 87 and 144 in law and in practice; and
 - (ii) the withdrawal of the Government's objections to the report of the Commission of Inquiry;
- (d) request the Director-General to present a report to its 345th Session (June 2022) on any progress concerning the operation of the social dialogue forum and in giving effect to the recommendations of the Commission of Inquiry.

435. A Government representative of the Bolivarian Republic of Venezuela (Minister of People's Power for the Social Process of Labour) was authorized to speak in accordance with paragraph 1.8.3 of the Standing Orders on a matter concerning his Government. He said that his Government had undertaken a number of actions to comply with the decision adopted by the Governing Body in November 2021, highlighting in particular the establishment of a social dialogue forum with the Office's support. The Office had developed terms of reference to guide discussions between his Government and Venezuelan organizations of employers and workers in the social dialogue forum. Its inaugural session, held on 7 March, had been attended by representatives of all invited social partners, the ILO Director-General and a team representing the Office. If permitted by the circumstances of the COVID-19 pandemic, in-person sessions would be held in the week beginning 25 April to address the ILO Conventions that were the subject of the complaint submitted under article 26 of the ILO Constitution.

436. His Government had made significant progress in its compliance with the Minimum Wage-Fixing Machinery Convention, 1928 (No. 26), and the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144). It was also taking steps to comply with the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and would continue to work with the social partners to resolve specific cases and to foster open, constructive dialogue. Furthermore, his Government was working with the Venezuelan legislature and social partners to review proposed legislation concerning the world of work, including on Conventions not covered by the complaint. The dialogue fostered in the previous

year would be sustained in an environment of mutual recognition and respect in order to seek vital solutions for all actors in the world of work in the country. However, it would be crucial to rebuild trust among all parties. He reiterated his Government's request for technical assistance from the Office, in particular concerning the representativeness of organizations of employers and workers in connection with the recommendations of the Credentials Committee of the International Labour Conference, since no such assistance had been received.

437. The Bolivarian Republic of Venezuela had been affected not only by the impact of the COVID-19 pandemic, but also by the continuation of unlawful and unilateral coercive measures in the form of blockades that were negatively and indiscriminately affecting the various actors in the Venezuelan world of work and jeopardizing the enjoyment of fundamental human rights.
438. He could support the amendment to the draft decision proposed by the Workers' group, which recognized his Government's efforts to establish the social dialogue forum and would enable it to continue to strengthen dialogue with all social partners in the country to ensure the proper application of the relevant Conventions. However, he did not support the subamendments proposed by the Employers' group and the Government of the United States, which did not recognize the progress made by his Government in its efforts to fulfil the decision adopted by the Governing Body in November 2021. His Government would continue to work through the social dialogue forum with the Office's support and was ready to hold meetings with the social partners in his country to galvanize progress before the upcoming sessions of the forum.
439. **The Employer spokesperson** noted that Venezuelan employers' and workers' organizations continued to make serious allegations of rights violations and violence against them. Furthermore, concrete solutions to pending issues had not been reached, and the Venezuelan Government had not respected the procedures for dialogue recommended by the Commission of Inquiry. The Committee on Freedom of Association continued to receive allegations of actions that had undermined the basic civil liberties of trade unionists and employers' organizations, including the arbitrary detention and irregular prosecution of a trade union leader for speaking out against the Government on social media. The Committee had expressed its deep concern at the continued violations, which defied the conclusions formulated by the Commission of Inquiry on the use of criminal legislation to restrict freedom of expression among trade union leaders and employers.
440. She took note, with some concern, of the terms of reference for the social dialogue forum that had been prepared by the Director-General. It was unacceptable that the terms contained no reference to the recommendations of the Commission of Inquiry, especially since they had still not been accepted by the Venezuelan Government. The establishment of that forum and the scheduling of in-person meetings for April 2022 were insufficient demonstrations of the Venezuelan Government's willingness to work with the ILO and build confidence. Instead, they appeared to many Governing Body members to be shortcuts that would deter constituents from taking difficult decisions at the present session of the Governing Body and the 110th Session of the International Labour Conference. Indeed, the Federation of Chambers and Associations of Commerce and Production of Venezuela (FEDECAMARAS) had continued to report violations of Conventions Nos 26, 87 and 144 to the ILO as recently as the previous week. She urged the Venezuelan Government to take the recommendations of the Commission of Inquiry seriously and to accept and implement them in good faith to ensure that independent organizations of employers and workers in the Bolivarian Republic of Venezuela could exercise their freedom of association. The Government should also refrain from cherry-picking certain areas in which to request the ILO's technical assistance.

441. It was disappointing that the Officers of the Governing Body had not agreed on the formulation of a clear, unambiguous draft decision that followed the direction provided by constituents in November 2021. Her group was also disappointed by the amendment submitted by the Workers' group since the recommendations of the Commission of Inquiry also affected Venezuelan trade unions. However, the subamendment proposed by the Government of the United States provided a good basis for the Governing Body to move forward.
442. **The Worker spokesperson** said that the current formulation of the terms of reference of the social dialogue forum took into account the concerns raised by the Employers' group and FEDECAMARAS and therefore did not require modification. The Venezuelan Government had demonstrated its willingness to comply with the decision adopted by the Governing Body in November 2021; however, more work needed to be done in that regard, and constituents must decide how best to achieve that goal. Her group was of the opinion that the Governing Body should support the social dialogue process that had been formally initiated in March 2022 and ensure that the Office would assist in that process, a view shared by the Venezuelan trade unions that had participated in the social dialogue forum and agreed to its terms of reference.
443. Her group could not support the subamendment proposed by the Employers' group. Although the Venezuelan Government had not formally accepted the recommendations of the Commission of Inquiry, it was engaging in social dialogue with the intention of ensuring full compliance with those recommendations. All parties should be encouraged to invest in the social dialogue forum in order to deliver on the commitments contained in its terms of reference, which had been signed by all parties including the Venezuelan Government. She welcomed the enumeration of all pending issues in the terms of reference in line with the Commission's recommendations.
444. In the spirit of compromise, the Workers' group would be prepared to accept the chapeau text proposed by the Employers' group in its subamendment to her group's initial amendment. Her group would also prefer to delete the negative language in subparagraph (a) and replace it with the wording "reiterate its call on the Government to accept the recommendations of the Commission of Inquiry" in the interest of encouraging compliance. The Workers' group did not support subparagraph (c) of that subamendment as it inaccurately implied that the Director-General had not already been engaging with the Venezuelan Government to ensure the implementation of the Commission's recommendations. However, her group could agree to a formulation that recognized that the Director-General would continue that work, such as "request the Director-General to continue to engage with the Government on the full implementation of the recommendations of the Commission of Inquiry". Her group could not support subparagraphs (c)(i) and (d), as the most important issue to be addressed in the draft decision was the full implementation of the Commission's recommendations through the social dialogue forum.
445. Subparagraph (c)(ii) of the subamendment proposed by the Government of the United States should also be deleted: if the Venezuelan Government were to be called upon to accept the Commission's recommendations, a reference to the withdrawal of its objections to the Commission's report would be redundant. Her group would be interested in hearing whether Governments could view its proposals as a way towards consensus.
446. **Speaking on behalf of the EU and its Member States**, a Government representative of France said that Montenegro, Albania, Iceland and Switzerland aligned themselves with her statement. Despite the Venezuelan Government's apparent readiness to comply with the decision adopted by the Governing Body in November 2021, she noted with disappointment its persistent unwillingness to accept the recommendations of the Commission of Inquiry and

strongly urged the Government to work with the Office to rectify the situation. She also noted with regret that Venezuelan employers' associations had reported the continued non-compliance of the Government with Conventions Nos 87 and 144.

447. She took note of the information provided on the virtual meeting of the social dialogue forum and welcomed the scheduling of an in-person meeting in April, given the importance of the continuation of that dialogue. She welcomed the adoption of the terms of reference, the efforts to address issues related to the application of Conventions Nos 26, 87 and 144 and the assurances provided with respect to the independence of organizations of employers and workers. She drew attention to the proposals made by FEDECAMARAS, including its call for the establishment of the three dialogue round tables as recommended by the Commission of Inquiry and its call for confirmation that the dialogue mechanism would be made permanent and that the ILO would continue to provide technical assistance during the dialogue process. There was an urgent need for technical assistance to ensure the full implementation of the Commission of Inquiry's recommendations, to support the social dialogue forum and to establish the foundations for genuine, constructive and effective dialogue.
448. She expressed support for the Director-General's efforts to engage with the Venezuelan Government to ensure the implementation of international labour standards and called on the ILO and its supervisory system to develop robust, effective measures to foster compliance in law and in practice. The EU and its Member States could support the draft decision as amended by the Workers' group and subamended by the Employers' group and the Government of the United States.
449. **A Government representative of Barbados** commended the efforts made by the Director-General and the Office to provide technical assistance and work with stakeholders to ensure compliance with the recommendations of the Commission of Inquiry. He urged the Office to continue its efforts in that regard. He welcomed the steps taken by the Venezuelan Government to make progress, however slow, including the initiation of social dialogue, which should become a permanent feature in the country. To ensure the protection of workers' rights, all countries that had ratified international labour standards must take action to comply with those instruments and all Member States must respect the ILO's supervisory system. Countries must also remain committed to consultation processes. He supported the amendment to the draft decision that had been proposed by the Workers' group, including the wording encouraging the Director-General to continue to work with the Venezuelan Government.
450. **A Government representative of Cameroon** noted with satisfaction the considerable progress made by the Venezuelan Government in its cooperation with the ILO, demonstrated by its engagement in inclusive social dialogue, its willingness to improve its compliance with ILO Conventions and the recent virtual meeting of the social dialogue forum. He called on the Governing Body to continue to support the provision of technical assistance to the Venezuelan Government for the purposes of determining the representativeness of employers' and workers' organizations and supporting the establishment of ongoing social dialogue in the country.
451. **A Government representative of the United States** expressed appreciation for the Director-General's efforts to engage with the Venezuelan Government. She noted with interest that the inaugural session of the social dialogue forum had recently been held and said that the inclusion of a commitment to effective social dialogue in the forum's terms of reference was encouraging. Her Government welcomed the information provided on the modalities for structured dialogue and concrete results and looked forward to learning of the outcomes of

the dialogue to be held in April 2022. Nonetheless, the continued failure of the Venezuelan Government to accept the recommendations of the Commission of Inquiry was deeply concerning.

- 452.** The draft decision should contain, as a minimum: a statement of regret at the Venezuelan Government's failure to accept those recommendations and a call for their immediate acceptance and implementation; a request for the item to be placed on the agenda of the Governing Body's session in June or November 2022; encouragement of genuine, inclusive social dialogue to support the implementation of Conventions Nos 26, 87 and 144; and a request for a detailed report on the social dialogue round tables and modalities. Accordingly, her Government had proposed a subamendment to the amendment proposed by the Workers' group in the interest of achieving consensus. Since the first round table had already been held, she proposed a further subamendment to subparagraph (c) of her Government's original subamendment to insert "continue to" before "engage", which could provide a way forward as suggested by the Workers' group.
- 453. A Government representative of China** noted that, by actively cooperating with the Office, promoting social dialogue and taking steps to meet its obligations, the Venezuelan Government would continue to make progress. The establishment of the social dialogue forum and the adoption of its terms of reference created a basis on which to further promote tripartite understanding. Technical assistance would be essential for progress to continue in that regard. She called on the Governing Body to take the national context into account in the current case and called for strengthened communication and cooperation between the Office and the Government to enhance implementation of ILO Conventions and promote economic and social development. She supported the amendment proposed by the Workers' group.
- 454. A Government representative of Colombia** recalled that her Government had objected to the decision adopted by the Governing Body at its 343rd Session, on the grounds that it was inconsistent with the provisions of the ILO Constitution. She expressed serious concern that the Venezuelan Government had still not recognized the recommendations of the Commission of Inquiry, in contravention of the Constitution, and that there continued to be instances of non-compliance with Conventions Nos 87 and 144. Establishing a social dialogue forum – the terms of reference of which had been adopted without prior consultations with the social partners – could not be taken as an indication that the recommendations had been accepted. The proposed amendment and subamendments to the draft decision were also inconsistent with the provisions of the Constitution, which, in its articles 29(2), 33 and 34, provided the only legal basis for action. Such inconsistencies set a precedent for Member States to ignore or reject a Commission of Inquiry, which would undermine the credibility of the supervisory system as a whole. The Governing Body had a duty to ensure that all Member States complied with the Constitution. Her Government would not stand in the way of consensus, but wished to state for the record that it strongly objected to the draft decision.
- 455. A Government representative of the Russian Federation** said that any report submitted to the Governing Body should be constructive and not confrontational. Despite initial reticence, the Venezuelan Government had cooperated with the Commission of Inquiry and was making progress towards the implementation of its recommendations. The Office should provide technical assistance to support that work. In the light of the impact of the COVID-19 pandemic, the Government should be given more time to implement the measures required to enhance social dialogue. The ILO's supervisory system had an essential role to play in that regard, and it must remain truly impartial in order to protect the ILO's credibility.

- 456. A Government representative of Guatemala**, emphasizing that all Member States should comply with their constitutional obligations, welcomed the Director-General's efforts to encourage the Venezuelan Government to comply with the Commission of Inquiry's recommendations, including by facilitating the establishment of the social dialogue forum. He encouraged the Director-General to continue those efforts and to report to the Governing Body at its 345th Session on any further progress. His Government would support any draft decision aimed at ensuring the implementation of the Commission of Inquiry's recommendations without delay.
- 457. A Government representative of the Islamic Republic of Iran** said that the Governing Body should acknowledge the progress made by the Venezuelan Government since November 2021 in implementing the recommendations of the Commission of Inquiry, especially in the context of the COVID-19 pandemic and unilateral sanctions. The establishment of the social dialogue forum represented a significant step forward. The Office should support that progress by providing the technical assistance and cooperation requested. He supported the draft decision as amended by the Workers' group.
- 458. A Government representative of Argentina** said that the information provided by the Venezuelan Government reflected the efforts it had made to strengthen social dialogue, supported by the Director-General. While challenges were inevitable, the good faith shown by all parties should create an environment in which differences of opinion could be overcome. He urged all parties to continue on the path of dialogue.
- 459. A Government representative of Pakistan** said that it was encouraging that the Venezuelan Government was taking measures in line with the recommendations of the Commission of Inquiry and previous Governing Body decisions. Even though it was grappling with the impact of the COVID-19 pandemic, the Government should continue to follow through on its commitments and to cooperate with the ILO, which in turn should respect national sovereignty. The Governing Body should call on the Office to provide technical assistance as requested. He warned against resorting to exceptional measures. Instead, priority should be given to dialogue and cooperation in order to improve the implementation of international labour standards and promote social justice. He supported the amendment to the draft decision proposed by the Workers' group.
- 460. A Government representative of Algeria** noted the ongoing efforts by the Venezuelan Government to strengthen social dialogue. She noted with satisfaction that the Government had agreed to hold bilateral meetings prior to the next meeting of the social dialogue forum. She called on the Office to honour the request for technical assistance submitted by the Government for the purposes of determining the representativeness of existing employers' and workers' organizations in the country. Encouraging the Government to continue cooperating with the Office, she supported the draft decision with the amendment proposed by the Workers' group.
- 461. A Government representative of Cuba** said that the Venezuelan Government had demonstrated its commitment to continue complying with its obligations within the tripartite framework of the ILO. The Government was acting in line with the recommendations of the Commission of Inquiry and had maintained open communication with all parties, despite the impact of the COVID-19 pandemic. The Government had repeated its request for technical assistance, which would be important to determine the representativeness of employers' and workers' organizations and to further strengthen social dialogue, thereby improving compliance with ILO Conventions. The current case was clearly political and aimed at interference; she reiterated her Government's rejection of manipulation by multilateral bodies

with the aim of interfering in the internal affairs of States. The reproduction in the document of the text of article 33 of the ILO Constitution was contradictory and did not take into consideration the background of the case. The Venezuelan Government had expressed support for the amendment proposed by the Workers' group, and the Government of Cuba also supported that amendment, which reflected the broad and inclusive dialogue that should prevail at the ILO. She expressed confidence in tripartite dialogue and negotiated solutions. The Governing Body should not allow any precedent to be set that would further politicize its decisions, and should provide the technical assistance requested by the Venezuelan Government without restrictions.

- 462. A Government representative of Namibia** took note of the significant progress made by the Venezuelan Government, which demonstrated its commitment to social dialogue and to improving compliance with the ILO Conventions it had ratified. The impact of the COVID-19 pandemic was still impeding progress in many areas, and that should be taken into account. The Office should provide technical assistance to determine the representativeness of employers' and workers' organizations in the country and the Governing Body should note the progress made by the Government. He supported the amendment to the draft decision proposed by the Workers' group.
- 463. A Government representative of Brazil** noted the establishment of the social dialogue forum and welcomed the information provided by FEDECAMARAS in that regard. The ILO should continue to follow-up on all social dialogue initiatives. However, the failure of the Venezuelan Government to accept the Commission of Inquiry's recommendations was regrettable, unprecedented and incompatible with the constitutional obligations of an ILO Member State. The Governing Body should respond accordingly. The Government's selection of which recommendations to apply set a bad precedent for the ILO's supervisory system. The Director-General should engage with the Government to promote the acceptance and full implementation of all the recommendations. The amendment proposed by the Workers' group sought to legitimize the rejection by the Venezuelan Government of the Commission of Inquiry's recommendations, and as such, was not acceptable. His Government supported the subamendment proposed by the Employers' group as amended by the United States. It could also consider supporting the Employers' original subamendment.
- 464. A Government representative of Iraq** welcomed the positive attitude adopted by the Venezuelan Government in accepting ILO technical assistance. The ultimate goal was to guarantee the rights of workers in the Bolivarian Republic of Venezuela, and not to politicize the work of the ILO.
- 465. The Worker spokesperson** proposed a compromise draft decision that reflected the points covered during the discussion, which read:

In light of the developments in Venezuela outlined in document GB.344/INS/14(Rev.1) and taking into consideration its decisions of March and November 2021, the Governing Body decided to:

- (a) reiterate its call on the Government to accept the recommendations of the Commission of Inquiry;
- (b) take note of the installation of the social dialogue forum;
- (c) request the Director General to continue to engage with the Government on the full implementation of the recommendations of the Commission of inquiry and the effective application of Conventions Nos 26, 87 and 144 in law and in practice; and
- (d) request the Director-General to present a report to its 345th Session (June 2022) on any progress concerning the operation of the social dialogue forum in giving effect to the recommendations of the Commission of Inquiry.

- 466. The Employer spokesperson** said that the proposed compromise draft decision did not, in fact, reflect a compromise. The Committee of Experts on the Application of Conventions and Recommendations and the Governing Body had noted ongoing violations and complaints concerning the Venezuelan Government's non-compliance with the ILO's fundamental Conventions, and its repeated failure to acknowledge the recommendations of the Commission of Inquiry. Her group could not accept a draft decision that did not refer to that governance problem and demonstrated disrespect for the ILO's supervisory system. She asked for more time to conduct further consultations with a view to reaching a tripartite agreement.
- 467. A Government representative of France** said that, while she welcomed the proposed compromise draft decision, she would welcome more time to review it.
- 468. A Government representative of Barbados** expressed support for the proposed compromise draft decision, which referred specifically to the recommendations of the Commission of Inquiry and encouraged further progress.
- 469. A Government representative of the United States** agreed that further consultations could enable the Governing Body to reach a consensus on the draft decision.
- 470. The Worker spokesperson** urged the Employers' group to consider that, despite the problems within the ILO's supervisory system, progress had been made since the last report of the Committee of Experts. Her group certainly wanted full implementation of the recommendations of the Commission of Inquiry, and she strongly objected to the suggestion that the amendment proposed by her group sanctioned a Government's failure to implement those recommendations or to take them seriously. While ready to participate in consultations, her group was not prepared to significantly amend the text of the proposed compromise draft decision.
- 471. The Government representative of the Bolivarian Republic of Venezuela** said that his Government had intended to hold meetings of the social dialogue forum prior to the current session of the Governing Body to discuss the three Conventions referred by the Commission of Inquiry and had requested technical assistance to that end. However, the Office had pointed out that there had been insufficient time to organize those meetings. Despite extensive dialogue with social partners over the previous year and the tangible progress made, it was regrettable that some members of the Governing Body still did not share the view that progress had been made. The Government would continue to work with the Office to strengthen social dialogue and improve the application of the Conventions in question. The proposed compromise draft decision took account of those circumstances and would enable the Government to demonstrate that further progress would be made.
- (The Governing Body resumed its consideration of the item at a later sitting.)*
- 472. The Employer spokesperson** proposed a subamendment to the proposed compromise draft decision by the insertion of the words "with the utmost concern" after "reiterate" in subparagraph (a). While that wording did not go far enough, it was being put forward in the spirit of compromise.
- 473.** The Venezuelan Government must accept the recommendations of the Commission of Inquiry as a matter of urgency. She expressed her group's continued disappointment at the position taken by the Workers' group and said that the Governing Body must demonstrate consistency in its decisions concerning governments that failed to accept the recommendations of a Commission of Inquiry.

- 474. The Worker spokesperson** said that her group would continue to engage in dialogue with the Employers' group to foster understanding of its position on the matter. Her group supported the proposed compromise draft decision as subamended by the Employers' group.
- 475. The Government representative of the Bolivarian Republic of Venezuela** said that the upcoming meeting of the social dialogue forum would enable his Government and all Venezuelan social partners to continue to forge a path towards peace and stability in the world of work with the support of the ILO. He expressed his gratitude to all Governments that had highlighted the progress made by his Government; to the Workers' group for taking an objective position and proposing constructive amendments to the draft decision; and to employers in the Bolivarian Republic of Venezuela, with whom his Government had an excellent relationship in terms of social dialogue.
- 476.** While some of the wording used in the proposed compromise draft decision did not sufficiently take into account the views expressed and the considerable progress made by his Government, it would clearly achieve consensus, create a way forward and enable his Government to continue to make progress in its efforts to strengthen social dialogue and comply with the relevant Conventions. He thanked those Governments that had joined the consensus and said that his Government would continue to inform the Governing Body of its progress on compliance with the Conventions that it had ratified.

Decision

- 477. In light of the developments in Venezuela outlined in document GB.344/INS/14(Rev.1) and taking into consideration its decisions of March and November 2021, the Governing Body decided to:**
- (a) **reiterate with the utmost concern its call to the Government to accept the recommendations of the Commission of Inquiry;**
 - (b) **take note of the installation of the social dialogue forum;**
 - (c) **request the Director-General to continue to engage with the Government on the full implementation of the recommendations of the Commission of Inquiry and the effective application of Conventions Nos 26, 87 and 144 in law and in practice; and**
 - (d) **request the Director-General to present a report to its 345th Session (June 2022) on any progress concerning the operation of the social dialogue forum in giving effect to the recommendations of the Commission of Inquiry.**

(GB.344/INS/14(Rev.1), paragraph 23, as amended by the Governing Body)

15. Reports of the Committee on Freedom of Association

397th Report of the Committee on Freedom of Association (GB.344/INS/15/1)

Addendum: Presentation of the Committee on Freedom of Association annual report for the year 2021 (GB.344/INS/15/1(Add.1))

- 478. The Chairperson of the Committee on Freedom of Association** said that in March 2022, the Committee had examined 25 cases on their merits, 11 of which had been concluded. The details of those cases were set out in the Committee's 397th Report. Expressing appreciation

for the efforts made by governments to provide their observations in a timely manner, he drew the attention of Afghanistan, the Democratic Republic of the Congo, Kenya, Madagascar, Maldives and Pakistan to the urgent appeal issued by the Committee for their respective Government's observations. The Committee had examined four cases in which Governments had kept it informed of the measures taken to give effect to its recommendations. Its examination of Case No. 3003 (Canada) had been concluded and the matter of the remedy to interference in public elementary educators' bargaining rights had been settled.

479. He drew attention to two serious and urgent cases. The first was Case No. 3203 (Bangladesh), which concerned the systematic violation of freedom of association rights, including through repeated acts of anti-union violence and other forms of retaliation, arbitrary denial of registration of the most active and independent trade unions and union-busting by factory management, as well as lack of law enforcement. Following its fifth examination of the case, the Committee had urged the Government to provide a copy of the court judgment in relation to the ill-treatment and murder of Mr Aminul Islam and indicate how the allegations of the involvement of the security forces had been addressed through the concluded judicial proceedings. Any allegations of that type should be rapidly and duly investigated through independent mechanisms and clear instructions should be given to state officials to prevent such acts. The Committee had emphasized the severe implications of prolonged court proceedings on the functioning of trade unions and expected that a decision would be reached without delay in relation to the court proceedings for the cancellation of trade union registrations. Having met with Government officials, he expected that they would do their utmost to provide the Committee with all information needed to examine the case fully.
480. The second serious and urgent case was Case No. 3405 (Myanmar), which concerned grave allegations of continuing attacks by the military authorities against trade unionists, workers and civil servants who were calling for the return to civilian rule following the coup d'état on 1 February 2021. The allegations included lists of workers and trade unionists for arrest, imprisonment and detention and numerous deaths following interventions by the military and police forces in peaceful protests, including the torture and killing of union leaders. The Committee firmly urged the responsible military authorities to adhere to the recommendations of the anticipated Commission of Inquiry in respect of the non-observance of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) and the Forced Labour Convention, 1930 (No. 29), which would no doubt shed light on the full circumstances and magnitude of the situation and bring justice for those who peacefully exercised the rights of freedom of assembly, expression and association.
481. The Committee's 398th Report focused on the measures taken by the Government of Belarus to implement the recommendations of the Commission of Inquiry. On its fourth examination of the implementation of those recommendations, the Committee had noted the lack of progress. The Government's express lack of intention to amend legislation that the ILO supervisory bodies considered to violate freedom of association and the absence of measures of redress against the violation of trade union rights demonstrated a lack of commitment to ensure respect for its obligations under the ILO Constitution. The Committee urged the Government to pursue its efforts and expected that the Government, with the assistance of the ILO and in consultation with the social partners, would take the necessary steps to fully implement all outstanding recommendations and ensure effective implementation of the ratified Conventions without further delay. The serious retreat on the part of the Government from its ILO constitutional obligations and from its commitment to implement the recommendations of the Commission of Inquiry was a cause of deep regret. The Committee

drew the serious situation to the attention of the Governing Body so that it might consider any further measures to secure compliance therewith.

482. Turning to the presentation of the Committee on Freedom of Association annual report for the year 2021, he noted that it included statistical data on the Committee's procedures and provided an overview of its work to assist ILO constituents in understanding its functioning. The report incorporated additional information on the use of national conciliation measures and on-the-spot missions. The Committee had invited a number of governments to accept on-the-spot missions to facilitate understanding and resolve outstanding issues, and he encouraged those governments to accept the Committee's invitation. The report attested to the strength of tripartite dialogue and consensus. The commitment and unwavering effort of Committee members to find mutually acceptable solutions to the challenges faced were appreciated.
483. **The spokesperson for the Employer members of the Committee** said that seven of the active cases being considered at the current session concerned the right to strike. The fact that the principle of freedom of association was enshrined in the ILO Constitution, on which the Committee's mandate was based, was what enabled an examination of such cases, regardless of whether the right to strike was included in international labour Conventions. The Committee examined allegations of violations of that principle by any ILO Member State, irrespective of whether they had ratified Conventions Nos 87 and 98. The Committee's broad mandate enabled it to issue detailed opinions on the right to strike, go beyond the literal content of the Conventions and formulate decisions on the matter. Cases of note on the right to strike in the current session included Case No. 3364 (Dominican Republic) concerning public education and Case No. 3319 (Panama) concerning air transport.
484. There were two cases in which the Committee had invited certain governments to accept direct contacts missions in order to gather information on the ground that might help to find solutions and expedite the closure of cases. Such missions also enabled the Committee to ascertain loopholes in national legislation that prevented the presentation of court rulings to the Committee for its examination or defined offences used to restrict freedom of association in that country. He highlighted two serious and urgent cases examined by the Committee, which regrettably had involved loss of human life.
485. In respect of the measures taken by the Government of Belarus to implement the recommendations of the Commission of Inquiry, he highlighted the reference in the report to the serious retreat by the Government from freedom of association and the tightening of legislation to impede the exercise of freedom of association. After 17 years, the recommendations of the Commission of Inquiry had still not been implemented. The Governing Body should consider, as a matter of urgency, the need to take more forceful and rapid decisions to ensure compliance with the recommendations of the Commission of Inquiry.
486. On working methods, he expressed concern over initiatives to reopen cases resolved previously in a tripartite manner. His group had alerted the Committee as to the difficulties that might arise in its functioning in the event that the closed cases were reopened. Such agreements were particularly important for a shared understanding of the nature of the Committee's decisions, which were adopted on an individual basis, taking into account specific country circumstances. The decisions did not constitute jurisprudence, as the Committee was not a jurisdictional body. Moreover, those agreements that had led to a change in the title of the compilation and in the introduction had resulted in greater clarity with regard to the Committee's mandate. His group had therefore indicated that it was not in a position to reopen those debates and would rather dedicate its efforts to improving the functioning of the

Committee and shared understanding of its work. He welcomed the new data and figures incorporated in the Committee's annual report for the year 2021, which enhanced understanding and the efficiency of its work.

- 487. The spokesperson for the Worker members of the Committee** said that at the recent session the Committee had discussed working methods to ensure that it was working effectively and efficiently to its mandate to determine whether any given legislation or practice complied with the principles of freedom of association and collective bargaining. The Employers' group had questioned the application of the mandate in relation to violations of Conventions Nos 87 and 98 and the use of the plural "principles" of freedom of association. Such issues posed no difficulty to her group and had been settled as uncontroversial for many years. It was essential to update the Committee's working methods to safeguard continuity and certainty, applying the principles of freedom of association consistently and taking into account national circumstances.
- 488.** The Committee's annual report for the year 2021 showed a change in 2021 in the distribution of cases by region and an overall drop in cases submitted over the previous decade, which could be accounted for by both short- and long-term reasons according to the country; the Committee would continue to monitor those figures. The report also highlighted that a high proportion of cases examined by the Committee in 2021 had involved threats to trade union rights and civil liberties. The Committee was regularly called upon to consider whether criminal or public order laws interfered in practice with trade union rights, and too often had to request governments to remedy those situations. It was unfortunate that the Committee sometimes received responses from governments which were not full, or which reported too little progress on its recommendations, owing to lack of capacity or willingness. At its recent session, the Committee had decided to include an additional paragraph in its annual report to record the occasions on which it had proposed missions, and to encourage application of its recommendations.
- 489.** Turning to the 397th and 398th Reports of the Committee on Freedom of Association on cases in the current session, she noted that three missions had been proposed. She drew special attention to Case No. 3203 (Bangladesh) and Case No. 3405 (Myanmar) owing to the extreme seriousness and urgency of those cases. In the case of Bangladesh, the Government had not adequately responded to the Committee's request for information and action in relation to serious allegations of, inter alia, violence and anti-union discrimination. The case of Myanmar was the most serious about which the Committee expressed its profound concern at the serious deterioration of freedom of association and other human rights in the country, and emphasized the need for an independent investigative authority. The Committee had also examined actions by the Government of Belarus to implement the recommendations of the Commission of Inquiry from 2004. The Committee deeply regretted the serious retreat on the part of the Government from its ILO constitutional obligations and its commitment to implement the Commission of Inquiry recommendations. The situation now warranted further consideration of other measures. Two cases examined by the Committee had involved safeguarding the exercise of the right to strike, affirming previous decisions in relation to essential services. In Case No. 3364 (Dominican Republic), the Committee had recalled that the education sector did not constitute an essential service in the strict sense of the term. In Case No. 3319 (Panama), it had recalled that compulsory arbitration imposed to prevent a strike was contrary to the right of trade unions to organize freely. Case No. 3398 (Netherlands) related to a package of state aid offered to an airline during the COVID-19 pandemic, conditional upon a reduction in payroll costs to which unions had to agree for five years, despite not being involved in the relevant discussions. The Committee had recognized the challenging context

of the pandemic but had recalled the exceptional and urgent circumstances in which collective bargaining could be restricted.

- 490. Speaking on behalf of the Government group of the Committee**, which consisted of members appointed by the Governments of Argentina, Colombia, France, Japan, Namibia and Sweden, a Government member from Sweden said that the Committee's work was characterized by a shared commitment to promoting the principles of freedom of association and collective bargaining, and that discussions within the Committee were highly constructive. It was hoped that the invitations to certain governments involved in long-standing cases for direct contacts missions or technical assistance would be accepted. She welcomed the acceptance by some governments to engage in discussions with the Committee and the Office.
- 491.** She drew special attention to Cases No. 3203 (Bangladesh) and Case No. 3405 (Myanmar) owing to their seriousness and urgency. She noted with deep regret the serious situation regarding follow-up to the recommendations of the 2004 Commission of Inquiry on Belarus in relation to the non-observance of Conventions Nos 87 and 98, which had been brought before the Governing Body for its consideration of further measures to secure compliance with those recommendations.
- 492.** Noting the gradual improvements made to the Committee's working methods and the application in some cases of the admissibility procedure introduced in 2021, she commended the voluntary conciliation procedures which, in many instances, were instrumental in preventing or resolving disputes relating to freedom of association at the national level. It was crucial that complaints mechanisms were never compromised, and that trade unions and employers' organizations continued to place their trust in the Committee's mechanisms.
- 493. Speaking on behalf of GRULAC**, a Government representative of Chile said that he appreciated the dialogue that his group had established with the Committee's Chairperson, which allowed for a greater understanding of the Committee's work. Welcoming the inclusion in the report of some of his group's concerns, he noted that the number of cases before the Committee remained high.
- 494.** The Committee's annual report for the year 2021 enabled members to analyse cases of various statuses, including cases of progress. Such progress demonstrated constituents' commitment to the ILO, illustrated through trade union registrations and legislative amendments to promote freedom of association, among other achievements. He welcomed the decrease in the number of complaints from the region of Latin America, which in 2021 had reached 24 per cent of all cases.
- 495.** He asked why figure 18 of the report, on cases of progress by region for 2021, showed no such cases in Latin America, when the Committee had noted with satisfaction cases where tripartite committees had been strengthened. In respect of paragraph 18, on incomplete observations in pending cases, a forthcoming report should indicate the elements that the Committee would consider to constitute a full reply. Referring to paragraph 20, he highlighted the importance of voluntary conciliation in his region. Several countries in his region had established tripartite committees with the assistance of the Office. It was regrettable that in 2021, voluntary conciliation had not been adopted in any cases and it was therefore important that the ILO provided technical assistance to constituents to promote its use.
- 496.** Referring to paragraph 4 of the 397th Report of the Committee on Freedom of Association, he highlighted the importance of efforts made by governments to collect information on each case, which often entailed requests for the cooperation of independent bodies, such as judicial institutions. With reference to paragraph 9, on partial information received from governments,

he reiterated his recommendation that the Committee should specify the additional information required for a reply to be considered full. He welcomed the information contained in paragraph 12 on the admissibility of complaints, showing that the Committee applied admissibility criteria to filter out complaints that might not be suitable for recommendations within the framework of its mandate. His group encouraged the Committee to continue to resolve cases and strictly apply the working methods that had been adopted.

- 497. A Government representative of Bangladesh** said that a written response from his Government to Case No. 3203 would follow in due course. Meanwhile, he provided an update in the hope of resolving the cases in question as soon as possible. The defendants of the case concerning enterprise (b) had recently been acquitted of the charges by the labour court on grounds of lack of proof. Most of the employees who had been dismissed had received their service benefits. A copy of the judgment would be made available with his Government's following report. The process to close the cases of enterprise (h) and enterprise (l) would be expedited based on legal measures.
- 498.** His Government would also implement a long-term plan to enhance the capacity of the judicial system, including the creation of 15 positions for lawyers to be distributed evenly between the Ministry of Labour and Employment, the Department of Labour and the Department of Inspections. The plan would be overseen by the Minister for Law and Justice. The judgment of the case of Mr Aminul Islam's murder in 2021 would be made available to the Committee. As outlined in his Government's time-bound road map, his Government would spare no effort to finalize all such cases and was confident that in its following report, it would be in a position to demonstrate significant progress on the remaining cases.
- 499. A Government representative of Cuba** noted with regret that the report did not include her Government's reply to the allegation dated 4 March 2021, which had been sent to the Office on 7 May 2021, and for which a confirmation of receipt had been received. The Office should forward all information provided by governments to the Committee on Freedom of Association, to allow for a more thorough analysis of the cases to be carried out. Her Government had demonstrated that the allegations in Case No. 3271 were false and were not related to trade union activity in Cuba. Rather, they had well-known political objectives, promoted by foreign powers. Such allegations served political campaigns of manipulation and interference that sought to discredit what was really happening in Cuba in terms of the promotion and protection of the rights and guarantees of Cuban workers. The Cuban Government investigated in detail each complaint submitted and, in most cases, the complainants' arguments were demonstrated to be false. However, Case No. 3271 remained open. Her Government categorically rejected any politically motivated action that undermined the ILO and the principles on which it was based. The Committee on Freedom of Association should examine the substantial information submitted by her Government and close the case. She reiterated that, in Case No. 3271, the complainant could not be considered to be a trade union organization within the meaning of Article 10 of Convention No. 87, as it did not comprise workers and neither did it defend or represent their interests, or have the support of any group of workers. Its limited membership comprised individuals who did not have a labour relationship and were financed by foreign powers seeking to subvert the social and political order that had been established by a legitimate and sovereign decision of the Cuban people. The Committee should understand that the complainants in the case were seeking to legitimize their mercenary activities and their attempts to bring about a change of regime, and were seeking recognition through the manipulation of international mechanisms. The supervisory mechanisms should not be undermined by actions that compromised the principles that were so important to their functioning, namely objectivity, impartiality and non-selectivity. The

Cuban Government rejected the recommendations of the Committee, which sought to legitimize mercenaries, and, as on previous occasions, as part of a respectful dialogue, it would send its responses to the recommendations contained in the report.

Decision

500. The Governing Body took note of the introduction to the Report of the Committee, contained in paragraphs 1–39, and adopted the recommendations made in paragraphs: 54 (Case No. 3391: South Africa), 78 (Case No. 3393: Bahamas), 94 (Case No. 3203: Bangladesh), 113 (Case No. 3355: Brazil), 141 (Case No. 3184: China), 220 (Case No. 3406: China – Hong Kong Special Administrative Region), 264 (Case No. 3149: Colombia), 287 (Case No. 3217: Colombia), 307 (Case No. 3223: Colombia), 331 (Case No. 3365: Costa Rica), 364 (Case No. 3271: Cuba), 383 (Case No. 3387: Greece), 412 (Case No. 3221: Guatemala), 421 (Case No. 3249: Haiti), 440 (Case No. 3400: Honduras), 479 (Case No. 3337: Jordan), 502 (Case No. 3401: Malaysia), 584 (Case No. 3405: Myanmar), 600 (Case No. 3319: Panama), 647 (Case No. 3398: Netherlands), 671 (Case No. 3265: Peru), 708 (Case No. 3267: Peru), 721 (Case No. 3364: Dominican Republic), 741 (Case No. 3385: Bolivarian Republic of Venezuela), 757 (Case No. 3339: Zimbabwe), and adopted the 397th Report of its Committee on Freedom of Association as a whole.

(GB.344/INS/15/1)

501. The Governing Body took note of the fifth annual report which covers the year 2021.

(GB.344/INS/15/1(Add.1), paragraph 4)

398th Report of the Committee on Freedom of Association – Measures taken by the Government of the Republic of Belarus to implement the recommendations of the Commission of Inquiry (GB.344/INS/15/2)

502. A Government representative of Belarus said that his Government had worked closely with the social partners and the Office to apply the recommendations, and had implemented all the proposals of the direct contacts mission. It ensured effective interaction with ILO supervisory bodies and its reports were detailed and addressed all sensitive issues. He noted with regret and extreme concern that the ILO platform was now being utilized by his Government's opponents to increase pressure on it. Unfounded and politically biased accusations were being used to discredit the country. It was obvious that the toughening of assessments of the Belarussian case were exclusively the result of political events or rather their interpretation by some trade unions. Illegal mass events posing a threat to public safety were presented as peaceful protests and illegal attempts to stop the work of enterprises were portrayed as strikes. Employees called to account for absenteeism were positioned as victims of discrimination and citizens who had committed illegal acts were presented as activists peacefully exercising their rights. Such interpretations and assessments did not correspond to the actual situation but were tools of political struggle, deliberate distortions of events and facts, and attempts to draw political issues into the competence of the ILO. The mass events that had taken place had no economic or social grounds. The use of events of an exclusively political nature as a basis for assessing the situation in Belarus was unacceptable and could seriously hinder the continuation of constructive dialogue. The arguments of the Government of Belarus should not be ignored when it came to taking a balanced approach to the consideration of accusations against the authorities, and to adhering to the clear framework of the ILO's mandate.

Decision

- 503. The Governing Body approved the Committee's recommendations as set out in paragraph 107 of document GB.344/INS/15/2.**

16. Report of the Director-General: Regular report (GB.344/INS/16)

- 504.** In preparation for the adoption of a decision by correspondence, the Office held a briefing session for Governing Body members on this item on 1 March 2022.
- 505.** The Screening Group agreed to put the item forward for a decision by correspondence and the decision was approved by consensus and announced to all Governing Body members by a communication of 11 March 2022.

Decision

- 506. The Governing Body took note of the information contained in document GB.344/INS/16 regarding membership of the Organization, progress in international labour legislation, internal administration and publications and documents.**

(GB.344/INS/16, paragraph 16)

16.1. First Supplementary Report: Report of the Meeting of Experts for the tripartite validation of the technical guidelines on general principles of labour inspection (13–16 December 2021) (GB.344/INS/16/1)

- 507. The Worker spokesperson** recalled that the technical guidelines on general principles of labour inspection resulted from a recommendation by the Standards Review Mechanism Tripartite Working Group to address the potential gap in detailed guidance on labour inspection resulting from the withdrawal of the Labour Inspection Recommendation, 1923 (No. 20). The guidelines were aligned with the provisions of the Labour Inspection Convention, 1947 (No. 81), the Labour Inspection (Agriculture) Convention, 1969 (No. 129), and the related Recommendations, and applied to all workers, workplaces and sectors. The labour protection provided by the guidelines stemmed from legal provisions, including laws, regulations, collective agreements and arbitral awards, and addressed areas such as occupational safety and health, violence and harassment, fundamental principles and rights at work, the employment relationship and social security. The guidelines would promote compliance with legal provisions on working conditions and worker protection, assist in providing technical information and advice to the social partners and help ensure that the attention of the authorities was drawn to gaps in, or abuse of, legal instruments in force. The guidelines drew on best practices in labour inspection and provided for how they could be most effectively enforced through a clear statement of the mandate, scope and function of labour inspection systems, and the role of enforcement measures and dissuasive penalties. They also underlined the importance of cooperation between inspectorates and employers' and workers' organizations, inter-institutional and cross-border cooperation, investigations into occupational accidents and diseases, the role of information and communications technologies in broadening the impact of services, and the vital role of unannounced inspections. The Workers' group welcomed the fact that the guidelines were clear on the need for independent, public labour inspection systems that enjoyed sufficient resources. The group supported the draft decision.

- 508. The Employer spokesperson** noted that labour inspection was not a goal in itself, but formed part of policies and strategies that aimed to improve working conditions. To be effective, those policies must be developed in line with relevant international labour standards. Labour inspection must meet the needs of all employers and workers, striking a balance between enforcement and advice, and must therefore be up to date, practical, balanced and relevant to developed and developing countries. The guidelines addressed a number of key points, such as the vital role of labour inspection in providing information and guidance, with penalties used only as a last resort; the need for labour inspectorates to be connected to evolving labour market trends and transformations in the world of work and for inspections to be relevant to contemporary practices and challenges; the value and benefits of cooperation with the social partners, who could contribute to knowledge-sharing and to the design and implementation of labour inspection action plans and campaigns and highlight difficulties faced by companies in complying with labour law; the importance of harnessing technology to strengthen the assistance provided by labour inspectors and the efficiency of inspections and to reduce the administrative burden; and the need for adequate human resource policies in labour inspectorates, including in relation to skills, diversity and performance. It was important to make clear that labour inspection was an administrative, rather than judicial, function. The new guidelines must now be applied, disseminated and promoted in the field to enhance the performance and contribution of labour inspection in order to achieve better working conditions for all.
- 509. Speaking on behalf of the Africa group,** a Government representative of Libya noted that the guidelines were not legally binding and should not create new obligations for Member States. They should be utilized while taking into account the national context and legal framework of Member States. Labour inspection helped to prevent abuse of labour relations, such as violence and harassment and working hours exceeding the legal framework, and to promote occupational safety and health. Consideration should be given to the working methods and independence of labour inspectors, who should be recruited by means of a transparent process based on their ability, education and experience. She called on the Office to enhance its technical assistance in the area of labour inspection. Her group supported the draft decision.
- 510. A Government representative of Colombia** noted that the efficiency of labour inspection depended largely on the recruitment and retention of qualified and motivated staff. She disagreed with the provision in the guidelines that labour inspectors should not be involved in formal conciliation owing to the potential conflict of interest; inspectors were well placed to seek amicable resolutions to labour disputes and it was not prohibited under ILO Conventions, but they should not be permitted to impose enforcement measures in cases in which they mediated conciliation processes. The guidelines would greatly benefit labour inspectors, and she therefore supported the draft decision.

Decision

511. The Governing Body:

- (a) **authorized the Director-General to publish and disseminate the Guidelines on general principles of labour inspection adopted by the Meeting of Experts for the tripartite validation of the technical guidelines on general principles of labour inspection on 16 December 2021 and appended to document GB.344/INS/16/1; and**

- (b) requested the Director-General to take into consideration the Guidelines on general principles of labour inspection when drawing up proposals for future work of the Office in this area.

(GB.344/INS/16/1, paragraph 8)

16.2. Second Supplementary Report: Documents submitted for information only (GB.344/INS/16/2)

Decision

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

- Approved symposia, seminars, workshops and similar meetings (GB.344/INS/INF/1)
- Report of the Committee of Experts on the Application of Conventions and Recommendations (Geneva, 24 November–11 December 2021) (GB.344/INS/INF/2)
- Update on the status of ratification of the 1986 Instrument for the Amendment of the Constitution of the ILO (GB.344/INS/INF/3)
- Report on the status of pending representations submitted under article 24 of the ILO Constitution (GB.344/INS/INF/4)
- Programme and Budget for 2022–23 – Collection of contributions from 1 January 2022 to date (GB.344/PFA/INF/1)
- Final report on the implementation of the Information Technology Strategy 2018–21 (GB.344/PFA/INF/2)
- External audit plan (GB.344/PFA/INF/3)
- Follow-up to the report of the Chief Internal Auditor for the year ended 31 December 2020 (GB.344/PFA/INF/4)
- Composition and structure of the staff at 31 December 2021 – Diversity outlook report (GB.344/PFA/INF/5(Rev.2))
- Report of the Board of Trustees of the Special Payments Fund (GB.344/PFA/INF/6)
- Decisions of the United Nations General Assembly on the report of the International Civil Service Commission for 2021 (GB.344/PFA/INF/7)
- Decisions of the United Nations General Assembly on the report of the 69th session of the United Nations Joint Staff Pension Board (2021) (GB.344/PFA/INF/8)
- Matters relating to the Administrative Tribunal of the ILO: Progress report on the review of the jurisdictional set-up of the United Nations common system (GB.344/PFA/INF/9)

(GB.344/INS/16/2, paragraph 3)

16.3. Third supplementary report: Report of the committee set up to examine the representation alleging non-observance by France of the Termination of Employment Convention, 1982 (No. 158)

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

Decision

513. The Governing Body, on the recommendation of the Committee decided to:

- (a) approve the report of the Committee;
- (b) request the Government to take account of the observations made in paragraphs 54, 58, 80 and 81 of the Committee's conclusions in the context of the application of Convention No. 158;
- (c) invite the Government to provide information on this matter for subsequent examination and follow-up, where applicable, by the Committee of Experts on the Application of Conventions and Recommendations; and
- (d) make the report publicly available and declare closed the procedure initiated by the representation.

(GB.344/INS/16/3, paragraph 82)

16.4. Fourth Supplementary Report: Composition of the Committee on Freedom of Association (GB.344/INS/16/4)

Decision

514. The Governing Body appointed Mr Jeff Vogt (United States of America), Worker member of the Governing Body, as Worker member of the Committee on Freedom of Association for the remainder of the period of office of the Governing Body for 2021–24, in replacement of Ms Catelene Passchier (Netherlands).

(GB.344/INS/16/4, paragraph 3)

16.5. Fifth supplementary report: Report of the Committee set up to examine the representation alleging non-observance by Uruguay of the Protection of Wages Convention 1949 (No. 95) and the Social Security (Minimum Standards) Convention 1952 (No. 102)

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

Decision

515. The Governing Body, on the recommendation of the Committee decided to:

- (a) approve the report of the Committee;
- (b) make the report publicly available and close the procedure initiated by the representation.

(GB.344/INS/16/5, paragraph 33)

16.6. Sixth supplementary report: Report of the Committee set up to examine the representation alleging non-observance by Argentina of the Occupational Safety and Health Convention 1981 (No. 155) and the Promotional Framework for Occupational Safety and Health Convention 2006 (No. 187)

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

Decision

516. The Governing Body, on the recommendation of the Committee decided to:

- (a) approve the report of the Committee;
- (b) remind the Government that it may avail itself of ILO technical assistance if it deems it appropriate;
- (c) invite the Government to submit, in its next report to the Committee of Experts on the Application of Conventions and Recommendations, information related to the above-mentioned conclusions, in particular with regard to the matters covered in paragraphs 21 and 23 of the report; and
- (d) make the report publicly available and close the procedure initiated by the representation.

(GB.344/INS/16/6, paragraph 25)

17. Reports of the Officers of the Governing Body

17.1. First report: Representation alleging non-observance by South Africa of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111)

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

Decision

517. In the light of the information contained in document GB.344/INS/17/1, and taking into consideration the recommendation of its Officers, the Governing Body decided that the representation was receivable and to set up a tripartite committee to examine it

(GB.344/INS/17/1, paragraph 5)

17.2. Second report: Representation alleging non-observance by Uruguay of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), and the Discrimination (Employment and Occupation) Convention, 1958 (No. 111)

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

Decision

518. In the light of the information contained in document GB.344/INS/17/2, and taking into consideration the recommendation of its Officers, the Governing Body decided:

- (a) that the representation was not receivable in relation to Convention No. 111;
- (b) that it was receivable in relation to Conventions Nos 87 and 98 and, as it relates to Conventions dealing with trade union rights, to transmit the representation to the Committee on Freedom of Association for examination in accordance with the procedure set out in the Standing Orders on articles 24 and 25 of the ILO Constitution.

(GB.344/INS/17/2, paragraph 5)

17.3. Third report: Representation alleging non-observance by Slovenia of the Occupational Safety and Health Convention, 1981 (No. 155), and the Protocol of 2002 to the Occupational Safety and Health Convention, 1981

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

Decision

519. In the light of the information contained in document GB.344/INS/17/3, and taking into consideration the recommendation of its Officers, the Governing Body decided that the representation was receivable and to set up a tripartite committee to examine it.

(GB.344/INS/17/3, paragraph 5)

18. Composition, agenda and programme of standing bodies and meetings (GB.344/INS/18(Rev.1))

520. The Employer spokesperson said that the preparatory technical conference on just transition should be deleted from the programme of ILO official meetings. Her group had proposed that the technical meeting on decent and sustainable work in the inland waterways sector be held in 2024. Holding the meeting in 2023 might create challenges in terms of capacity and was not necessarily feasible. She proposed inserting a footnote specifying that the dates of that meeting were to be confirmed.

521. The Worker spokesperson said that it had already been agreed that the technical meeting on decent and sustainable work in the inland waterways sector would be held in the fourth quarter of 2023, as stated in the document, and she did not support the proposal to insert a footnote.

522. The Clerk of the Governing Body said that it had been agreed to include the technical meeting on decent and sustainable work in the inland waterways sector in the programme of sectoral meetings for 2022–23. The date remained to be confirmed and was only forecast for the fourth quarter of 2023. If, in the course of the biennium, it proved impossible to schedule that meeting, the Governing Body would take a further decision on the matter. The revised programme of meetings to be published at the conclusion of the current session would, in the meantime, indicate that the dates for this meeting and for the other remaining sectoral meetings in 2023 were still to be determined, as reflected in the already approved programme

of sectoral meetings. The reference to the preparatory meeting on just transition would also be revised in light of the outcome of the discussion on the agenda of future sessions of the Conference to be held later in the sitting.

Decision

523. The Governing Body, upon the recommendation of its Officers:

- (a) approved the scope of the meeting of experts on decent work in the platform economy contained in paragraph 3 of document GB.344/INS/18(Rev.1);
- (b) approved the new dates for its tripartite working group on options to ensure decent work in supply chains indicated in paragraph 5 of document GB.344/INS/18(Rev.1);
- (c) authorized the Director-General to issue an invitation to the organizations listed in the appendix to document GB.344/INS/18(Rev.1), it being understood that it will be for the Conference to consider their requests to participate in the work of the committees dealing with the agenda items in which they have stated a special interest, and to inform the organizations concerned that they may nominate one person only for each of the agenda items in respect of which their interest has been recognized;
- (d) endorsed the proposals made in relation to the invitation of intergovernmental and international non-governmental organizations as observers to the other official meetings listed in the appendix to document GB.344/INS/18(Rev.1); and
- (e) took note of the programme of meetings contained in Part II of document GB.344/INS/18(Rev.1), subject to regular review depending on the evolution of the COVID-19 pandemic.

(GB.344/INS/18(Rev.1), paragraph 11)

19. The Russian Federation's aggression against Ukraine from the perspective of the mandate of the International Labour Organization (GB.344/INS/19)

524. The Chairperson introduced the draft resolution set out in document GB.344/INS/19. The draft resolution, which had been co-sponsored by 47 ILO Member States, including 13 regular members and 8 deputy members, had been circulated to all Governing Body members at the end of the previous week.

525. Speaking on behalf of a cross-regional group of countries consisting of the 47 co-sponsors³ of the draft resolution as well as Costa Rica, Israel and the Republic of Korea, a Government representative of Canada said that at the beginning of the session one week earlier, members had spoken in unison to urge the Governing Body not to remain silent on the Russian Government's blatant violations of international law, the Charter of the United Nations and the fundamental principles enshrined in the Constitution of the International Labour Organisation (ILO Constitution). For the people of Ukraine, that past week had meant seven more days of brutal and senseless bombing, displacement and suffering. The lives and

³ Albania, Australia, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Canada, Chile, Colombia, Croatia, Cyprus, Czechia, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Guatemala, Hungary, Iceland, Ireland, Italy, Japan, Latvia, Lithuania, Luxembourg, Malta, Montenegro, Netherlands, New Zealand, North Macedonia, Norway, Peru, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, Turkey, Ukraine, United Kingdom, United States, Uruguay.

livelihoods of the Ukrainian people, workers, employers and their families were under attack. The ILO had been created with a mandate to pursue universal and lasting peace through social justice. That commitment had been reaffirmed 100 years later through the ILO Centenary Declaration for the Future of Work (the Centenary Declaration) and it was time to do so again. It was the responsibility of the Governing Body to take measures within its purview to urge the Russian Government to abide by international law and prevent further devastating impacts on the world of work in Ukraine and beyond. It was for that reason that the group of countries supported the text of the resolution as submitted, and entrusted the Governing Body to adopt it in solidarity with the tripartite constituents of Ukraine.

526. The invasion of Ukraine by the Government of the Russian Federation was unjustifiable. She called on the Russian Government to immediately and unconditionally cease its aggression, withdraw its military forces from Ukraine and end the suffering that it was inflicting. The Ukrainian people, including workers and employers, must have the freedom to determine their own future. Thousands of Ukrainian businesses had been destroyed or forced to stop operating, and their workers had fled from hostilities. She called for the protection of workers, employers and their families in Ukraine and commended the ILO for quickly adjusting its programming in support of aid for those who had fled Ukraine. The group of countries trusted that the Organization would do all that it could to support the tripartite constituents of Ukraine in their efforts to protect labour rights and promote decent work for those who had fled. She invited the Governing Body to pay tribute to the ILO staff in Ukraine who had continued their tireless work amid unfolding conflict, to the trade unions and the business community from around the world for their unwavering efforts to help Ukraine's people, and to the solidarity of workers, employers and the Government of Ukraine who were risking their lives in the name of freedom and social justice. The Russian Government's disregard for the ILO Constitution could not be tolerated and must not be ignored by the Governing Body. The Russian Government must be condemned with one voice. The Governing Body must stand firmly with the brave and resilient workers, employers and Government of Ukraine.
527. **A Government representative of the Russian Federation** expressed his Government's disappointment regarding the prevailing anti-Russian, politicized and partial rhetoric that had extended to the ILO. The crisis in Ukraine was a result of many years of non-compliance by the Ukrainian Government with the Package of Measures for the Implementation of the Minsk Agreements. The Ukrainian authorities, actively armed and incited by the United States and its close allies, had been wrongly led to believe that a military solution to the problems in the Donbas region was possible.
528. The ongoing suffering of the people living in that region had been largely ignored by Western countries. However, as the threat to civilians in the Donetsk and Luhansk People's Republics had not abated and no solution was likely within the framework of the Minsk agreements, the Government of the Russian Federation had initiated a special military operation. The purpose of that operation was not to occupy Ukraine, but rather to defend the people who had been subject to mistreatment and genocide by the regime in Kyiv and to demilitarize and denazify Ukraine.
529. Additionally, the Government of the Russian Federation was exercising its right to self-defence, in accordance with Article 51 of the Charter of the United Nations, from a regime that was trying to regain access to nuclear weapons, an intention confirmed by the President of Ukraine during a speech to a security conference in Munich in February 2022, and trying to gain access to the provisions of Article 5 of the North Atlantic Treaty by joining the North Atlantic Treaty Organization (NATO). Furthermore, Ukraine had pretensions to some parts of Russian territory. Its accession to NATO would mean that the Russian Federation was virtually surrounded by a

military bloc, and no security guarantees had been offered to his Government by NATO. The slightest escalation could lead to all-out conflict. Thus, the special military operation, by seeking to establish the principles and goals of the Charter in the Donbas region and in Ukraine, was fulfilling the main purpose of the United Nations, namely, preventing another world war.

- 530.** With regard to the principles of sovereignty and territorial integrity, which his Government had been accused of violating, he recalled the 1970 Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations. The Annex to that Declaration stated that States should conduct “themselves in compliance with the principle of equal rights and self-determination of peoples ... possessed of a government representing the whole people belonging to the territory without distinction as to race, creed or colour.” The current Government of Ukraine was not such a government, and the Government of the Russian Federation had been left with no choice but to act.
- 531.** The draft resolution introduced by the representative of Canada was anti-Russian, deliberately partial and one-sided. It made no mention of the eight years of oppression and military aggression carried out by the Kyiv regime in the Donetsk and Luhansk People’s Republics. Neither did it contain any reference to the destruction of civilian infrastructure in those regions, thereby obscuring crimes committed by the Ukrainian authorities. Furthermore, if the authors of the draft resolution were truly concerned about the situation of workers and the sustainability of enterprises, then the draft resolution should also condemn the trade war unleashed against the Russian Federation, which affected workers and employers both in the Russian Federation and in neighbouring States and trade partners, including in the European Union. Given the significant progress made in establishing sustainable cooperation with tripartite constituents in the Russian Federation and other States in the former Soviet space, the proposal contained in the draft resolution to move the ILO Decent Work Technical Support Team and Country Office for Eastern Europe and Central Asia out of Moscow made little sense. Lastly, the authors of the draft resolution had ignored the large-scale harassment of Russian citizens abroad on the basis of their nationality or origin. Russian citizens were losing their jobs in the European Union, the United States and Canada, including in the science and arts sectors. He asked whether such behaviour was in accordance with the principles of the ILO.
- 532.** Therefore, he requested that the Governing Body vote on the draft resolution and urged voting constituents to oppose its adoption, despite the pressure being exerted by Western countries. He called on the ILO and its constituents to abide by the principles of neutrality and objectivity, and not to introduce any element that exceeded the ILO’s framework of Conventions and its impact on domestic legislation relating to labour and other issues. Politicizing the ILO’s decisions would jeopardize the authority and reputation of the ILO itself.
- 533. A Government representative of Ukraine** was authorized to speak in accordance with paragraph 1.8.3 of the Standing Orders of the Governing Body on a matter concerning the situation in her country. She said that on 24 February 2022, the foundations of the ILO, which had been created to accomplish universal and lasting peace based on social justice, ensure rights at work, support working people and protect their human and labour rights, had come under unprovoked and unjustified attack by the Government of the Russian Federation, with the support of the Government of Belarus. Indiscriminate and barbaric attacks by Russian forces had caused thousands of civilian casualties, including the death of 117 children. Civilian infrastructure had been targeted: residential areas, kindergartens, schools, hospitals, maternity wards, airports, bridges and water reservoirs. No lie or disinformation could justify those crimes against humanity.

534. Three million Ukrainians had been forced to leave the country, and 11 million were internally displaced, having lost their homes, incomes and jobs. According to the National Bank of Ukraine, 30 per cent of Ukrainian enterprises had ceased production, and 45 per cent had substantially reduced their activities. The Russian military aggression, which had deliberately targeted industrial establishments for maximum effect, had caused direct economic losses equivalent to US\$565 million, and Ukraine's gross domestic product was predicted to contract by 10 per cent in 2022. Workers in besieged cities such as Mariupol, had been left without the right to work, and had no access to food, water or electricity. The aggression would have a long-lasting detrimental effect on decent work in Ukraine, causing irreparable loss of resources, reduction of labour potential, labour migration and forced deportation to the aggressor State, and posed an insurmountable threat to the lives and health of workers. Workers were deprived of safety in their workplaces and a stable income to support their families. Restrictions had been unavoidably placed on workers' and employers' rights as a direct result of the war, reducing opportunities for collective bargaining and the resolution of labour disputes. The rights and security of women and children were particularly at risk, especially in the occupied territories.
535. In the face of the brutal aggression by the Russian Government, supported by the Government of Belarus, the ILO must take a decisive step. She commended the draft resolution, which called upon the Russian Federation to immediately and unconditionally cease its aggression, withdraw its troops from Ukraine, for taking the path of peaceful resolution consistent with the Charter of the United Nations and international law, the founding principles of the ILO and the Centenary Declaration. By considering the draft resolution, the Governing Body would contribute to the comprehensive and multidimensional international response to the behaviour of the Government of the Russian Federation, complementing the implementation of United Nations General Assembly resolution A/RES/ES-11/1 on aggression against Ukraine, and Human Rights Council resolution A/HRC/RES/49/1 on the situation of human rights in Ukraine stemming from the Russian aggression. Any Government that violated international norms and perpetrated atrocities against civilians did not deserve a seat on the Governing Body. She looked forward to the Director-General's report on the application of the resolution at the 345th Session of the Governing Body, with a view to addressing the impact of the continuing aggression on the ILO's work, mandate and tripartite constituents in Ukraine.
536. She commended the solidarity of domestic workers and employers with the Government in Ukraine, commending the ongoing volunteering efforts to help those in need. She also expressed her Government's sincere appreciation for the unity and solidarity demonstrated by the tripartite constituents from around the world. The adoption of the draft resolution would pay tribute to those on the front line who were defending democracy, freedom and the right to decent work for all.
537. **A Government representative of Belarus** was authorized to speak in accordance with paragraph 1.8.3 of the Standing Orders since his country had been referred to during the discussion. He said that he did not support the draft resolution and called for a vote, in which participants should vote against its adoption. The draft resolution did not adhere to the policy of the diplomatic resolution of disputes and would merely exacerbate the situation, when negotiations to seek peace for all involved were needed. He categorically denied the accusation contained in the draft resolution of Belarusian involvement in the military conflict in Ukraine. The situation was a dreadful tragedy, first and foremost for the population of Ukraine. The draft resolution diminished the consequences of living in a zone of military conflict for workers and their families in Eastern Ukraine. The fact that the Minsk agreements had been ignored

had led to the current situation in which millions of people had been forced to flee their hometowns.

- 538.** That tragedy had been whipped up by the countries of NATO, who had ignored the legitimate security interests of countries and people in the region for decades. An unprecedented war of sanctions had been launched against Belarus and the Russian Federation to destabilize the domestic situation and worsen conditions for workers and their families. There was clear discrimination by Western countries against workers from Belarus or the Russian Federation based on their nationality or origin. If the Governing Body ignored that discrimination it would undermine the fundamental human rights and principles that it sought to uphold, including the right to live free of discrimination.
- 539.** The Governing Body should focus on the impact of the conflict on efforts for decent work and sustainable enterprises. The draft resolution was silent on the impact on people in the West; such political leadership was taking the path of war. The policy of unprecedented military expenditure on an uncontrolled flow of weaponry into the conflict area could have tragic consequences for Europe and the world. Without peace, talk of workers' rights and decent work was nonsense. The resolution did not reflect the interests of the workers of the world. His Government wanted an end to bloodshed in neighbouring countries and a resolution that sought peace in Ukraine. A platform for negotiation between Ukraine and the Russian Federation to seek a peaceful settlement of the conflict was needed, and his Government had taken steps in that regard. His Government could not support the proposal to relocate the ILO Decent Work Technical Support Team and Country Office for Eastern Europe and Central Asia to another country.
- 540. Speaking on behalf of the EU and its Member States,** a Government representative of France said that North Macedonia, Montenegro, Albania, Iceland, Norway and Ukraine aligned themselves with the statement. The EU and its Member States aligned themselves with the cross-regional statement delivered by the Government representative of Canada. She said that the unprovoked and unjustified military aggression against Ukraine violated international law and the principles of the Charter of the United Nations, inflicted unspeakable suffering on the Ukrainian population and undermined European and global security. The Governments of the Russian Federation and Belarus bore full responsibility for that aggression and those responsible would be held to account for their war crimes, in particular the indiscriminate targeting of civilians.
- 541.** She called on the Government of the Russian Federation to immediately cease its military actions, immediately and unconditionally withdraw all its forces and military equipment from the entire territory of Ukraine, and to fully respect Ukraine's territorial integrity, sovereignty and independence within its internationally recognized borders. She called on EU partners to support that call. She expressed solidarity with the citizens of Ukraine, whose courage exemplified their commitment to the universal values of freedom, sovereignty and democracy. The ILO would not abandon them in their time of need and recognized that the devastation of jobs, enterprises and livelihoods would endure for many years to come.
- 542.** Reaffirming the principles enshrined in the ILO Constitution and the Centenary Declaration regarding the incontrovertible link between universal and lasting peace and social justice, she expressed the unwavering support of the EU and its Member States for the tripartite constituents in Ukraine. For that reason, her group supported the draft resolution and called for its adoption.
- 543.** However, in addition to the Russian aggression against Ukraine, the Governing Body must not forget that human and labour rights were also being violated in other countries. She

commended the ILO for its invaluable work in support of governments and social partners towards the implementation of the fundamental principles and rights at work.

- 544. The Worker spokesperson** welcomed the draft resolution and the inclusion of the social partners in the drafting process. Her group joined the UN's condemnation of the brutal and unacceptable invasion of the democratic and sovereign State of Ukraine and the ensuing devastation and destruction, the full responsibility for which lay with the Governments of the Russian Federation and Belarus. Mindful of the impact of war on worker's lives, livelihoods and rights, on communities and on sustainable enterprises, she drew attention to the Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205), developed in response to situations of war and conflict, which highlighted the impact of conflicts and disasters on poverty and development, human rights and dignity, decent work and sustainable enterprises, including for refugees.
- 545.** The conflict in Ukraine was not the only conflict in the world, but its scale and brutality were particularly appalling. She echoed the call for the Government of the Russian Federation to immediately, unilaterally and without preconditions cease its horrifying war on the people of Ukraine and withdraw its troops. That could be the only basis for genuine peace negotiations.
- 546.** Her group emphasized the need to address the poverty caused by the war for the millions of people who had left Ukraine as refugees or been internally displaced. She paid tribute to the work of trade unions in countries hosting refugees in providing food, shelter and advice on how to secure decent work. She also commended trade unionists in Ukraine, who continued to offer support to internally displaced persons despite the dire conditions, including the distribution of humanitarian aid. The international community should support that voluntary work and its unseen costs, for example the energy costs being incurred by those providing shelter, despite the constant threat of shelling and bombing. Trade unions should be involved in the reconstruction work that would follow the war, and the ILO should provide support to ensure that Ukraine would once again be able to provide decent work and sustainable enterprises, including appropriate retraining and social protection.
- 547.** She highlighted in particular the efforts of railway workers and truck drivers, facilitating routes out of Ukraine for refugees and into Ukraine for humanitarian aid; and of workers in the health, education, care, energy, logistics and retail sectors, who were maintaining essential services despite great personal risk. She insisted on the safety of journalists and other workers involved in the dissemination of accurate information in a context where fake news and propaganda were prevalent.
- 548.** In that light, she noted that the draft resolution in its 11th preambular paragraph commended the volunteering efforts of employers. As had been highlighted by the representative of Ukraine, the volunteering efforts of all people should be commended, and she therefore proposed including in the draft resolution the words "commending trade unions and civil society groups, both inside Ukraine and elsewhere, for their important and quite massive supporting and volunteering efforts."
- 549.** Women, children and elderly and vulnerable persons were always the main casualties of war, despite bearing no responsibility for starting them. They deserved the support of the ILO. Women and girls faced additional challenges in situations of conflict, and the ILO must address the risks of violence, sexual abuse and harassment proactively, through preventive measures and the provision of support and remedy. However, the draft resolution rightly noted the impact of the war on citizens in all countries as a result of rising food and energy prices. In addition, she noted the impact on the thousands of young Russian men who had been sent to war, and the suffering that resulted from the inevitable sanctions unleashed on the Russian

Federation. She also expressed support for those Russian citizens and workers who had bravely condemned the aggression against Ukraine and were suffering as a result. She called on all workers to speak out against war as a solution for any problem, as it was ordinary citizens and workers who suffered. She expressed concern regarding the effect of returning to the use of fossil fuel on the greening of economies and societies. Decent work, social protection and social dialogue, including a just transition, would help to resolve the resultant crises for workers, refugees and internally displaced persons. The ILO had an important role to play in the care and integration of refugees.

- 550. Her group endorsed the measures set out in the draft resolution, which she hoped would contribute to ending the war and lay the foundations for the reconstruction of the democratic, sovereign State of Ukraine, on the basis of social justice, decent work and sustainable enterprises. The international community, and the ILO, must consider how it would ensure workers' access to rights, decent work, social protection, good wages and skills, pursuant to the international labour standards.
- 551. She expressed particular concern regarding the ILO staff in Ukraine, and said that the ILO must ensure their safety. Any possible relocation of staff and activities resulting from the adoption of the draft resolution should be the subject of proper consultations with ILO staff representatives.
- 552. Reiterating that there could be no lasting peace without social justice, and no social justice without peace, she expressed her group's support for the draft resolution.
- 553. **The Employer spokesperson** strongly condemned the unilateral use of armed force in all settings and urged the Government of the Russian Federation to immediately and unconditionally respect the territorial integrity, borders and sovereignty of Ukraine. She reaffirmed her group's solidarity with the people, businesses and workers of Ukraine and its commitment to mobilize the employer community to support the victims of the war. The International Organisation of Employers and the International Trade Union Confederation had made a joint call to support the humanitarian work of the United Nations High Commissioner for Refugees in Ukraine and would communicate that call to Governing Body members after the discussion. Her group was deeply concerned at the catastrophic consequences of the conflict on world peace, the economic situation, employment and social welfare, and its impact on progress towards the achievement of the Sustainable Development Goals.
- 554. The Employers' group would support a draft resolution that contained a strong and clear political statement concerning the aggression mounted by the Government of the Russian Federation against Ukraine and its devastating effect on individuals, employers, workers, the international order and social justice; that focused on the ILO's mandate to ensure that the Organization could provide real added value; that strengthened the ILO's support to constituents in Ukraine; and that enabled the ILO to continue its engagement with all constituents to contribute to the restoration of peace and social justice and address the humanitarian catastrophe.
- 555. A number of members of her group had reservations regarding the practical consequences of the measures contained in operational paragraphs 8, 9 and 10 of the draft resolution. She therefore insisted on the importance of keeping channels of dialogue open to make full use of the important role that the ILO could play in applying pressure to restore international order and employing diplomacy to restore peace. The Employers' group supported the draft resolution.

- 556. A Government representative of the United States** said that the unprovoked, unjustified and unlawful war waged by the Government of the Russian Federation and enabled by the Government of Belarus against Ukraine was grossly incompatible with the ILO's aims and purposes and the principles governing membership of the Organization. The Government of the Russian Federation must immediately and unconditionally withdraw from Ukraine and cease its unlawful actions. The war was causing the deaths of citizens, displacing workers and employers and destroying workplaces and critical infrastructure, creating a devastating and long-lasting impact on the world of work in Ukraine and globally.
- 557.** The ILO must stand in defence of peace and justice. She supported the draft resolution, which would allow Governments, Employers and Workers together to hold the Governments of the Russian Federation and Belarus accountable for the unacceptable suffering of the people of Ukraine.
- 558. A Government representative of the United Kingdom** said that, as a result of the illegal war waged by the Government of the Russian Federation in Ukraine, businesses and livelihoods had been destroyed, workers had been killed and the Ukrainian labour market and economy had been crippled, risking grave consequences for countries around the world. ILO constituents must therefore send a collective message to the Government of the Russian Federation. Until the agreement of a ceasefire, the Russian Government should be suspended from all ILO discretionary meetings; the ILO's non-humanitarian technical cooperation and assistance in the Russian Federation should be withdrawn; and the ILO Decent Work Technical Support Team and Country Office for Eastern Europe and Central Asia should be relocated away from Moscow to ensure that it could properly serve the needs of constituents from other countries. There could be no social justice without peace; she therefore encouraged all Governing Body members to support the draft resolution.
- 559. A Government representative of the Islamic Republic of Iran** said that the draft resolution as currently formulated would not bring about a positive outcome. It was unclear how peace and justice could be achieved by depriving the workers and employers of a Member State of technical assistance and the opportunity to attend ILO meetings. The ILO and social partners could play a unique role in addressing the impact of disasters and conflicts by strengthening collaboration during and after such crises. The ILO should continue to fulfil its normative mandate, foster tripartism and refrain from putting its mandate and reputation at risk.
- 560. A Government representative of Cuba** said that her Government unequivocally opposed the use of threats or force against any country and called on all parties to protect civilians and civilian infrastructure. The attempts made by the Government of the United States to permit the progressive expansion of NATO to the borders of the Russian Federation, ignoring the legitimate security concerns of that country, had led to a situation with dangerous consequences. Peace could not be built in that way. Her Government rejected any attempt to politicize the ILO or its work, or to use the Organization to foment confrontation, and would continue to advocate for peaceful measures to achieve a diplomatic solution that would safeguard the sovereignty and security of all parties.
- 561. A Government representative of China** said that the sovereignty and territorial integrity of all countries should be respected, and international disputes should be resolved in line with the Charter of the United Nations. The ILO was not the appropriate forum for the discussion of political and security matters. The politicization of technical issues was not in the interest of tripartite constituents and would have consequences for the ILO's authority in the world of work. The draft resolution would not lead to the peaceful settlement of the conflict or its resolution through diplomatic channels. The measures proposed therein would only create

new problems and further complicate the situation. His Government would support all efforts to achieve a peaceful resolution. He supported the request made by the Government of the Russian Federation for a vote on the matter.

- 562. Speaking on behalf of the cross-regional group of countries,** a Government representative of Canada said that the wording proposed by the Workers' group regarding the support provided by trade unions and civil society groups aligned with the overwhelming message of solidarity with workers, employers and the Government of Ukraine that had been conveyed by members of the Governing Body. She confirmed that the intention of the co-sponsors of the draft resolution was to recognize the unwavering efforts of all tripartite constituents.
- 563. The Chairperson** said that the wording proposed by the Workers' group would be inserted into the draft resolution as the 12th preambular paragraph. In the light of the strong support demonstrated by the social partners and a majority of Governments, she asked the Governing Body if it wished to adopt the draft resolution.
- 564. A Government representative of the Russian Federation** recalled that a number of delegations had expressed their strong opposition to the draft resolution. Given the distinct lack of consensus, he reiterated his Government's request for a vote on the matter. Adopting the draft resolution without a vote would be a violation of the principles enshrined in the Standing Orders of the Governing Body.
- 565. The Chairperson** said that, having consulted with the other two Officers of the Governing Body, she had decided to put the draft resolution to a vote as requested by the Government of the Russian Federation and in accordance with paragraph 33(g) of the Special Arrangements for hybrid sessions of the Governing Body. She further indicated that under the circumstances, a record vote would be taken.

(The Governing Body proceeded to take a record vote on the adoption of the draft resolution, as amended)⁴

(The draft resolution, as amended, was adopted by 42 votes to 2, with 8 abstentions)

- 566. Speaking on behalf of the EU and its Member States,** a Government representative of France said that the result of the vote was encouraging; it reassured their Ukrainian brothers and sisters that they were not fighting alone and showed the Organization's commitment to sustainable peace and social justice. The resolution sent a clear message that no intimidation would be allowed and efforts would not cease to protect the joint and universal values of freedom, sovereignty and democracy. The EU and its Member States expressed their unwavering support for the workers, employers and freely elected Government of Ukraine. The adoption of the resolution reasserted confidence in tripartism and constructive dialogue and contributed to concerted global efforts to bring an immediate end to the Russian aggression against Ukraine and bring about lasting peace for all.
- 567. A Government representative of Brazil** said that his Government had abstained in the consideration of the draft resolution with regret, since it was all too aware of the catastrophic impact of the situation in Ukraine on the rights and principles enshrined in the ILO Constitution and reaffirmed in the Centenary Declaration and Recommendation No. 205. The Governing Body had a mandate to address crises arising from conflicts to the extent that they affected the ILO's constituents and jeopardized the realization of the Organization's core purposes; it

⁴ Record vote on the adoption of the draft resolution concerning the Russian Federation's aggression against Ukraine from the perspective of the mandate of the International Labour Organization. See Appendix.

must not infringe on the mandates and prerogatives of other United Nations bodies with primary responsibility for responding to the conflict in Ukraine. His Government had voiced its concerns about the humanitarian situation on the ground and had called for the de-escalation and cessation of hostilities at the United Nations Security Council and General Assembly. It had made clear its steadfast commitment to political and diplomatic efforts for a peaceful solution to the crisis, based on the Minsk agreements, and had urged all parties to abide by their obligations under international law. While much could be done by the ILO to shed light on the situation in Ukraine and offer guidance on how to alleviate its impact on the social partners, the Governing Body was overstepping its mandate, which could impair its ability to address similar situations in the future. The resolution contained text inspired by United Nations Security Council initiatives and set an unjustifiable precedent that would not contribute to the goals of the ILO Constitution. His Government would support any future initiative that was aimed at providing all possible assistance within the remit of the Organization to tripartite constituents in Ukraine and safeguarding technical cooperation and assistance in other countries in the region.

- 568. A Government representative of Indonesia** said that the sovereignty and territorial integrity of all nations were fundamental principles; no action that undermined those principles was acceptable. The attack against Ukraine had resulted in the loss of innocent lives and mass displacement that had also affected a substantial number of Indonesian citizens, and his Government had therefore welcomed the United Nations General Assembly and Human Rights Council resolutions on the matter. Taking note of the intention of the resolution, he said that some of its operative text was not compatible with the aim and purpose of the ILO. Geopolitical discussion should take place in a more appropriate forum with wider participation. The isolation of one party would jeopardize the Organization's efforts for a human-centred recovery from the COVID-19 crisis that was inclusive, sustainable and resilient. Meaningful tripartite interaction would require inclusive efforts. His Government had therefore abstained from voting on the resolution.
- 569. A Government representative of the Russian Federation** noted that it was regrettable that the ILO had taken a further step towards the politicization of its work, which would seriously harm the Organization. At a time for collective efforts, the Organization had made a decision that would undermine the significant work undertaken to develop social dialogue and strengthen universal social justice. It was regrettable that remarks on the need to refrain from inflammatory rhetoric and assist with a negotiation process, and on the limited and biased text proposed by Canada and the appropriateness of such a resolution, had not been taken into account in the adoption of the text. A joint appeal was being prepared by the beneficiary countries of the ILO Decent Work Technical Support Team and Country Office for Eastern Europe and Central Asia on the need to retain that Office in Moscow. He requested that the text of that appeal should be included in the list of official documents for the 344th Session of the Governing Body.
- 570. A Government representative of Ukraine**, having received authorization to speak in accordance with paragraph 1.8.3 of the Standing Orders, welcomed the resolution adopted by the Governing Body. The overwhelming majority of the tripartite constituents had expressed their strong support for Ukraine and its people in fighting the unjustified and unprovoked armed aggression of the Russian Federation. The resolution sent a clear signal to the aggressor State to immediately cease its unlawful action, unconditionally withdraw from the territory of Ukraine and take the path of respect for international law, the Charter of the United Nations and the founding principles of the ILO. She thanked the Governments, Workers and Employers

for their commitment to the ILO, its principles and purposes, and its objectives to achieve social justice, democracy and lasting peace.

571. A Government representative of the United Kingdom said that, as each day passed, the unprovoked aggression of the Russian Federation against Ukraine became more dangerous, destructive and indefensible. The adoption of the resolution by the tripartite community of the ILO sent a powerful message. The Organization's mandate intertwined peace and social justice; in unleashing war and suffering, the Russian Federation had shown contempt for the ILO and its social partners and mandate. She commended those who had sponsored or voted in favour of the resolution; they stood on the right side of history, united with the people of Ukraine.

Resolution

The Russian Federation's aggression against Ukraine from the perspective of the mandate of the International Labour Organization

The Governing Body of the International Labour Office,

Recalling the adoption of United Nations General Assembly resolution ES-11/1 of 2 March 2022, on aggression against Ukraine, and United Nations Human Rights Council resolution 49/1 of 4 March 2022, on the situation of human rights in Ukraine stemming from the Russian aggression;

Welcoming the establishment of a Commission of Inquiry under the aforementioned United Nations Human Rights Council resolution;

Welcoming the legally binding Order on Provisional Measures by the International Court of Justice ordering the Russian Federation to immediately suspend the military operations that it commenced on 24 February 2022 in the territory of Ukraine;

Solemnly reaffirming the principle enshrined in the Constitution of the International Labour Organisation that universal and lasting peace can be established only if it is based upon social justice;

Recalling that the ILO Centenary Declaration for the Future of Work considered "that the experience of the past century has confirmed that the continuous and concerted action of governments and representatives of employers and workers is essential to the achievement of social justice, democracy and the promotion of universal and lasting peace";

Recalling the Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205), particularly in regard to considering the long-lasting impact and consequences of conflicts for poverty and development, human and labour rights and dignity, decent work and sustainable enterprises;

Recalling also that the Centenary Declaration considered that persistent poverty, inequalities and injustices, conflict, disasters and other humanitarian emergencies in many parts of the world constitute a threat to economic and social progress and to securing shared prosperity and decent work for all;

Endorsing the ILO Director-General's statement of 3 March 2022, in which he affirmed that the aggression by the Russian Federation against Ukraine is a brutal repudiation of the Organization's mission to promote peace through social justice, and that among its first victims will be working people;

Expressing grave concerns at reports of civilian casualties and attacks on civilian facilities, and the severe impact on workers and employers risking their lives to continue working and operating, including during attacks on hospitals, schools, transportation, businesses and nuclear power plants, further worsened by the lack of humanitarian access;

Also expressing grave concerns about the devastating impact and tragic consequences of the aggression on the safety and the livelihoods of employers, workers and their families in Ukraine, and about the long-term detrimental impact to Ukraine's labour market and economy caused by the forced displacement of the workforce and the destruction of workplaces, critical civilian infrastructure and schools;

Recognizing the serious impact on the capacity of employers in Ukraine to provide for decent work and the sustainability of their enterprises and commending employers for their ongoing volunteering efforts;

Commending trade unions and civil society groups for their generous and massive supporting and volunteering efforts to reach out to those in need;

Expressing its unwavering support for the tripartite constituents in Ukraine – workers, employers and its democratically elected Government – at this most difficult time;

Deploring the impact on the ILO's staff in Ukraine and their work to implement the Decent Work Country Programme and development cooperation programmes;

Recognizing the enormous scale of internally displaced persons and refugees, mostly women, children and older people, forced to flee their homes, workplaces, enterprises, communities and country, seeking safety, resulting in a humanitarian disaster with a significant impact on countries neighbouring Ukraine and others around the world;

Expressing strong concerns about the potential impact of this aggression on global food and energy security, with rising food and energy prices and risks of increasing poverty and inequalities in several regions in the world;

Declares that the continuing aggression against Ukraine by the Government of the Russian Federation, aided by Government of Belarus, is grossly incompatible with the aims and purposes of the Organization and the principles governing ILO membership;

Calls upon the Russian Federation to immediately and unconditionally cease its aggression, withdraw its troops from Ukraine, end the suffering it is inflicting on the people of Ukraine, as well as refrain from any further unlawful threat or use of force against any Member State and take the path of peaceful resolution consistent with the Charter of the United Nations and international law;

Requests the International Labour Office to join with the rest of the United Nations system in providing all possible assistance within the remit of the ILO to tripartite constituents in Ukraine;

Demands all parties to allow safe and unhindered passage to safe destinations outside Ukraine, including seafarers, and urges immediate, safe and unhindered humanitarian access for those in need;

Urges all Members to take measures, in accordance with national and applicable international law, to protect and ensure labour rights and a safe environment for all those fleeing Ukraine, in particular those in vulnerable situations;

Requests the International Labour Office to work with constituents on developing programmes relevant to the ILO's mandate in support of those who fled Ukraine and tripartite constituents in Ukraine;

Makes a pressing appeal to all constituents to consider the adoption of appropriate measures to urge the Russian Federation to respect in full its duties and obligations arising from ILO membership, as well as to cease violations and abuses preventing the fulfilment of labour rights in Ukraine;

Decides, while safeguarding the ILO's technical cooperation or assistance to all other countries within the purview of the ILO Decent Work Technical Support Team and Country Office for Eastern Europe and Central Asia, to temporarily suspend technical cooperation or

assistance from the ILO to the Russian Federation, except for the purpose of humanitarian assistance, until a ceasefire is agreed and a peaceful resolution is implemented;

Requests the International Labour Office to explore options to safeguard the technical cooperation or assistance to all other countries in the aforementioned region, including the possible relocation of the ILO Decent Work Technical Support Team and Country Office for Eastern Europe and Central Asia to an area outside the Russian Federation;

Decides to suspend invitations to the Russian Federation to attend all discretionary meetings, such as technical meetings and meetings of experts, conferences and seminars whose composition is set by the Governing Body; and

Decides to remain seized of this matter and requests the Director-General to follow the situation in Ukraine and to submit for the consideration of the 345th Session (June 2022) of the Governing Body a report on the application of the present resolution, including any necessary recommendations, with a view to addressing the impact of the Russian Federation's continuing aggression on the ILO's work, mandate and tripartite constituents in Ukraine.

Other matters

Tribute to the Clerk of the Governing Body

- 572. Speaking on behalf of the Government group**, a Government representative of the Philippines paid tribute to the Clerk of the Governing Body, Mr Juan Llobera, for his many years of dedication to the work of the ILO and wished him well in his future endeavours.
- 573. The Worker Vice-Chairperson, the Employer Vice-Chairperson, a Government representative of Spain and the Chairperson** also paid tribute to Mr Llobera.

Election of the Director-General of the ILO (private sitting)

Decision

- 574. With five candidates standing for election and after two ballots, Mr Gilbert F. Hounbo was declared elected to the post of Director-General of the International Labour Office with 30 votes, the required majority being 29 votes. Mr Hounbo's appointment will commence on 1 October 2022, for a five-year term of office in accordance with article 4.6 of the ILO Staff Regulations.**

Appointment of the Director-General of the ILO (public sitting)

- 575. The Chairperson** announced that the voting had been completed successfully and had fully met the conditions and criteria set out by the Governing Body to ensure a fair and transparent procedure. The successful candidate for the post of Director-General of the International Labour Office, with 30 votes, was Mr Gilbert F. Hounbo. She expressed the Governing Body's congratulations to the successful candidate.

(The Director-General elect made and signed a Declaration of loyalty.)

- 576. The Director-General elect** thanked the Chairperson for the manner in which the election had been organized and conducted. He paid tribute to the other candidates and thanked the members of the Governing Body for the faith that they had placed in him. He would spare no effort to meet the expectations of the ILO's constituents. He paid tribute to Guy Ryder, highlighting his efforts to place the ILO and a human-centred future of work at the centre of

global policy debates and thereby demonstrate that decent work and social justice represented the only path to sustainable development and peace. The Governing Body's choice allowed him to fulfil his childhood aspirations and carry on his quest for social justice, and was a significant moment for the region of Africa, which had not had a seat at the table when the ILO Constitution was drafted in 1919. The Governing Body had made history and he was deeply honoured to be the first representative of the Africa region to be selected to lead the Organization. He thanked the Government of Togo, African Member States and the African Union and its Commission for their efforts in favour of his candidacy.

- 577.** Although his origins were African, his perspective was global; in an age of division, he would act as a unifying Director-General. Governments, employers and workers from all regions could rely on his readiness to represent and advocate the views of all tripartite constituents. He was committed to representing the voices of those who relied on the ILO, whether people without social protection, the unemployed and those working in the informal sector, children in child labour, women and men subjected to discrimination, violence and harassment or enterprises facing disruption and closure due to crisis including the coronavirus (COVID-19) pandemic, climate change or armed conflict. The ILO was compelled to address all these expressions of unacceptable social injustice. He would be guided in his work by the ILO Centenary Declaration for the Future of Work (2019) (Centenary Declaration). In a time of uncertainty over the future, the ILO must insist on the common values of peace, social justice and solidarity. Since the Organization's foundation on the principle that universal and lasting peace could only be established based on social justice, it had remained committed to the principles of tripartism and social justice. The time for celebration would be short; he was eager to get to work. The coming months would provide the first opportunity to consult on future plans and priorities and he would work closely with Guy Ryder, the Organization's staff and the members of the Governing Body for a smooth transition process. There was no time to lose. The world needed an ILO that was capable of solving the real problems of working people and enterprises.
- 578. A Government representative of Togo** congratulated the Director-General elect on his appointment. He expressed his pleasure and pride in the historic election of Mr Hougbo, a former Prime Minister of Togo. He extended his thanks to all members of the Governing Body and the Office and noted the work of the Africa group and the African Union to put forward Mr Hougbo as a candidate. He encouraged Mr Hougbo to work in the highest interests of the Organization, which were the observation of labour standards and the creation of decent work, and to ensure that social protection and social justice continued to inspire and guide him in his work. Fairness, transparency and effectiveness should also steer him in the discharge of his duties.
- 579. Speaking on behalf of the Government group,** a Government representative of the Philippines congratulated Mr Hougbo on his election and wished him success in leading the unique tripartite Organization. She assured him of the support of the Government group in his work. Given the importance of diversity, it was high time for the Organization to appoint its first Director-General from Africa. She thanked all candidates for their engagement in the election process and expressed appreciation for the efforts of the Chairperson, the Officers of the Governing Body and the Office to guide constituents and candidates through that process and ensure its integrity. The outgoing Director-General had upheld the principles of fairness, integrity and equality throughout the election and had successfully led the Organization into its second century. A smooth and efficient handover was needed in a context in which the ILO could not take a break. The collective objectives of lasting peace, social justice and decent work were further out of reach for an increasing number of people. She called for a strong

international order based on international law, including the Charter of the United Nations, and a strong ILO with a strong Director-General.

- 580. Speaking on behalf of the Africa group,** a Government representative of Morocco offered his congratulations to Mr Hougbo on his election as the first African Director-General of the ILO. He also congratulated the other candidates in the election; their calibre was testament to the importance of the Organization and the value placed on it by all regions and countries. The Organization was needed to play its role in a world that faced many challenges and had a crucial mandate to promote social justice and peace. He congratulated the African Union and noted that the election campaign had been carried out with respect for all candidates. The Director-General elect represented new hope for a more inclusive Organization with the best possible relations with all constituents, and could count on the unfailing support of all Members of the Organization in the exercise of his mandate. He thanked the Governing Body and the Chairperson for the responsible and transparent conduct of the election.
- 581. Speaking on behalf of ASPAG,** a Government representative of Australia said that she was pleased to congratulate Mr Hougbo on his election as Director-General and acknowledged the contribution of the unsuccessful candidates to the democratic election process. She expressed confidence that the ILO would continue its important work under the new leadership. The ILO should continue to pursue the rights of people at work and promote sustainable enterprise; she looked to the Director-General elect to lead with vision and pragmatism to deliver for all constituents and people across the globe, in their diversity. She expressed the hope that the under-representation of ASPAG in the ILO's tripartite governance would be addressed. The transformation to a world of decent work must be accompanied by the transformation of the ILO itself to uphold the principles of equality, neutrality and objectivity, as well as full, equal and democratic practices in tripartite governance. ASPAG was committed to supporting the Director-General elect to strengthen the Office through the workforce, while improving its geographical diversity. The fundamental tenets enshrined in the ILO Constitution, the Declaration of Philadelphia, the Centenary Declaration and other key documents must be upheld in the ILO's efforts to improve the labour situation all over the world. The implementation of the ILO Global call to action for a human-centred recovery from the COVID-19 crisis that is inclusive, sustainable and resilient was also a priority. ASPAG stood ready to support the realization of those goals.
- 582. Speaking on behalf of GRULAC,** a Government representative of Chile congratulated Mr Hougbo on his election. The Director-General elect, who represented the diversity that should prevail at the ILO, would face multiple challenges, particularly in the context of the recovery from the COVID-19 pandemic. Increased efforts would be needed to ensure a human-centred approach in all areas of the ILO's work. Efforts would also be needed to enhance the level of diversity within the Organization and improve standard-setting procedures to help countries resolve issues at the national level and strengthen tripartism. He thanked and congratulated the outgoing Director-General for ensuring a transparent, democratic and tripartite election, and the staff of the Office for their professionalism in conducting the process. Noting that the success of the ILO represented a success for everyone, he expressed his appreciation to all the candidates and pledged the Director-General elect the full support of his group.
- 583. Speaking on behalf of the EU and its Member States,** a Government representative of Czechia congratulated Mr Hougbo on his election as the first African Director-General of the ILO. She wished him every success and was confident that he would bring the same commitment and conviction to his position, with the same spirit of tripartism and social dialogue, as his predecessor. The EU and its Member States looked forward to working with

him to build on their common belief in social justice for decent work and lasting peace. A commitment to international labour standards and their supervision was of pivotal importance if the ILO was to be able to fulfil its constitutional mandate. They also looked forward to seeing the direction in which Mr Hougbo would take the ILO at such an important crossroads.

- 584. A Government representative of Indonesia** also congratulated the Director-General elect. His Government was confident that Mr Hougbo's leadership would bring about an improved ILO that would provide better protection for workers, further promote sustainable enterprises, place more focus on the interests and needs of developing countries, uphold the full, equal and democratic participation of its constituents in its governance and ensure geographical distribution in its human resources. His Government, which currently held the G20 presidency, would welcome the participation of the newly elected Director-General at the 17th G20 Heads of State and Government Summit in November 2022, and stood ready to support him in his role. He commended Mr Ryder for his excellent leadership over the past decade, including his efforts to strengthen the ILO through reform.
- 585. A Government representative of India** congratulated Mr Hougbo on his election as the first Director-General from Africa and wished him success in his future endeavours. He expressed support for Mr Hougbo's vision for the ILO and for the direction that he wanted the Organization to take in the future. He commended all the other candidates who had participated in the election in a democratic manner and expressed gratitude to the outgoing Director-General for his excellent leadership.
- 586. A Government representative of Nigeria** commended the Chairperson, the outgoing Director-General and the staff of the Office for ensuring a free and fair election and thanked the other candidates for their participation. The expectations set for the incoming Director-General were very high; his Government trusted that he would perform the functions required of him to the best of his ability, and in doing so deepen tripartism and social dialogue. Mr Hougbo could count on his Government's support.
- 587. A Government representative of the United States** extended warm congratulations to the Director-General elect and wished him every success. The ILO had been presented with an opportunity to step up its essential role in the global economy with respect to promoting workers' rights, social protection, safe and healthy workplaces for all, a just transition towards environmentally sustainable economies and societies for all and the integrity and transparency of global supply chains. Her Government looked forward to working with Mr Hougbo and had confidence in his vision for addressing the significant challenges facing the Organization. She thanked Mr Ryder for his tremendous leadership over the past ten years and the Office for ensuring a smooth election process.
- 588. A Government representative of China** also congratulated the Director-General elect and said that his Government was convinced that, under Mr Hougbo's leadership, the ILO would continue to play a leading role in the world of work and unite the tripartite constituents in their efforts to accelerate a human-centred recovery. His Government would fully support the Director-General elect in his work and would continue to deepen its cooperation with the ILO to promote social justice and decent work and safeguard and exercise genuine multilateralism. He also expressed thanks to Mr Ryder for his guidance and extraordinary contribution to the ILO over the past ten years.
- 589. A Government representative of Barbados**, extending his thanks to the Chairperson and the Office for organizing the election process, welcomed the Director-General elect and said that all candidates in the election process had distinct strengths. The world was in flux, including in the areas of public health, the climate and geopolitics, and human beings were under threat

in every sphere of activity. The ILO must continue to protect workers by placing emphasis on decent work and human-centred policies underpinned by social justice. Going forward, the ILO must be at the centre of development efforts globally and in Member States. Fairness and equity were requirements for all ILO Members, and inclusion must remain the hallmark of the Organization. He looked forward to a term in which all regions and subregions of the ILO were recognized and their nuances understood, and in which all ILO resources were used to achieve progress where needed most. He thanked Mr Ryder for his excellent leadership during a very turbulent period and looked forward to developing a productive relationship with the Director-General elect.

- 590. A Government representative of the United Kingdom** congratulated Mr Hougbo on his historic election to the role of Director-General, which was all the more remarkable given the quality of the other candidates. He thanked them all for their engagement. He also thanked the Chairperson and her team for the way in which the election process had been conducted, and Mr Ryder for his leadership and for rising to the challenges that the ILO had faced during the past ten years. His Government trusted that Mr Hougbo would guarantee a smooth and effective transition. The world was facing dark times and there was a greater need than ever before for the ILO and the vision that it embodied.
- 591. A Government representative of Pakistan** congratulated Mr Hougbo for his landmark achievement. He thanked the Chairperson for skilfully steering the Governing Body through the election process, the outgoing Director-General for his contribution to the world of work and all the candidates for their participation in a democratic process. His Government trusted that the Director-General elect would be able to address the multiple challenges faced by the world of work through the implementation of a shift in paradigm, while upholding the ILO's core values. Mr Hougbo could count on his Government's full support in his endeavours to strengthen the Office and provide support to the constituents.
- 592. The Employer Vice-Chairperson** congratulated Mr Hougbo and paid tribute to all the candidates for their dedication to the ILO. The landmark election of Mr Hougbo as the first African Director-General of the ILO was evidence that the Organization was truly global. Her group was confident that his experience and leadership would guide the ILO along the path required, not only to demonstrate its relevance within the United Nations system, but also rebuild the trust of all ILO constituents in the institution that he would represent. The Employers hoped that his able leadership would facilitate effective social dialogue and bring the social partners closer to resolving long-standing issues and to tackling existing and future challenges.
- 593.** Recalling her group's positive experience of working with Mr Hougbo in the past, during his time as Deputy Director-General, she said that she expected him to successfully facilitate dialogue and cooperation among the social partners in order to respond to urgent and sensitive matters. The implementation of the Centenary Declaration would be a guiding reference in that regard. The Employers had no doubt that Mr Hougbo would continue to work with the constituents towards achieving a better ILO in which the voices of the tripartite constituents were heard and where dissenting positions also had a legitimate place through effective social dialogue.
- 594.** Mr Hougbo's election responded to the call of the tripartite constituents for transformation and strong leadership to secure the ILO's relevance on the global scene, while preserving its valuable traditions. The Employers' group would support the Director-General elect, and all ILO staff, on that path, in a constructive and proactive manner, and hoped that his mandate would

be a true success for the Organization and all its tripartite constituents. She looked forward to paying tribute to the work of Mr Ryder in due course.

- 595. The Worker Vice-Chairperson** said that free, fair and transparent elections were a cornerstone of democracy and that the ILO was a true tripartite parliament of the world of work. She congratulated Mr Hougbo on his election to lead it, and warmly welcomed the fact that he would be the first Director-General from the African region. While it was time for a change in many ways, her group did not expect to see a change in terms of the strong commitment to social justice, tripartism and the normative mandate of the ILO expected from any Director-General.
- 596.** While the incoming Director-General could count on her group's support and commitment during his first term of office, he should also expect its constructive criticism, as the challenges before the Organization were enormous. The world was in great turmoil and in great need of an ILO that could lead once again as a strong partner in the multilateral system on social justice for lasting peace and democracy. The ILO was a fortress for the rights and protection of millions of workers across the world who were often in difficult and vulnerable situations. The Workers expected Mr Hougbo to provide the necessary leadership for the ILO in the years to come and stood ready to support him in that endeavour.
- 597. The Director-General** thanked the Chairperson for leading the electoral process with the highest levels of integrity, respect for the principles of transparency and fairness. He expressed his appreciation to the other four candidates for their contributions, which demonstrated the quality of the Organization and the esteem in which it was held. The election of the first Director-General from the African continent was a reflection of how the ILO was catching up with the realities of its 187 Member States across the globe. The current world was moving quickly, sometimes in directions that could be approved, sometimes in directions that must be deplored. But the ILO and its Member States could rest assured that, with his extensive knowledge of the Organization, the Director-General elect was the right person to take the ILO forward and address the challenges of the future of work. Mr Hougbo would not be deterred by the challenges ahead and the expectations of him that had been set, and would bring the highest level of talent, integrity and quality to his work. He extended his warmest congratulations to the Director-General elect and gave his assurances that he, and the Office as a whole, would be devoted to ensuring that the transition process was as smooth and productive as it could possibly be and that when Mr Hougbo took office on 1 October 2022, it would be in the very best conditions possible.

Closing remarks

- 598. The Chairperson** expressed her thanks to all those who had made the session possible, including those who had shared the chairing responsibilities with her and the Vice-Chairpersons. She commended all the members of the Governing Body for their contribution and commitment. The days had been long for many of them in different time zones, but the work had been accomplished. She expressed her heartfelt appreciation to all the Office staff who had made the session a reality, in particular Ms Juvet-Mir, the Chief of Protocol, for the preparations that had been made for the election, and Mr Llobera, the Clerk of the Governing Body, for his assistance throughout the session. Lastly, she thanked the Director-General for his support and collaboration.

► **Appendix****Results of the vote**► **344th Session - Geneva - March 2022**

Projet de résolution concernant l'agression commise par la Fédération de Russie contre l'Ukraine du point de vue du mandat de l'Organisation internationale du Travail

Draft resolution concerning Russian Federation's aggression against Ukraine from the perspective of the mandate of the International Labour Organization

Proyecto de resolución sobre la agresión de la Federación de Rusia contra Ucrania desde la perspectiva del mandato de la Organización Internacional del Trabajo

Pour/For/En Pro: 42

Contre/Against/En contra: 2

Abstentions/Abstentions/Abstenciones: 8

Majorité/Majority/Mayoría: 23

► **Pour/For/A favor: 42**

| Gouvernements/Governments/ Gobierno | Employeurs/Employers/ Empleadores | Travailleurs/Workers/ Trabajadores |
|--|--------------------------------------|---|
| Allemagne | Mr Scott BARKLAMB | Mr Francis ATWOLI |
| Australie | M. Hamidou DIOP | Ms Lily CHANG |
| Barbade | Sr. Alberto ECHAVARRÍA | Mr Plamen DIMITROV |
| Chili | Ms Renate HORNUNG-DRAUS | Sra. Maria Fernanda Carvalho FRANCISCO |
| Colombie | Mr Thomas Milton MACKALL | Ms Akiko GONO |
| États-Unis d'Amérique | Mr Hiroyuki MATSUI | Mme Béatrice LESTIC |
| France | M. Blaise MATTHEY | Sr. Gerardo MARTÍNEZ |
| Guatemala | M. El Mahfoudh MEGATELI | Mr Magnus NORDDAHL |
| Italie | Ms Jacqueline MUGO | Ms Catelene PASSCHIER |
| Japon | Mr Henrik MUNTHE | Mr Ashok SINGH |
| Mexique | Mme Anne VAUCHEZ | Mr Jeffrey VOGT |
| Roumanie | Sr. Fernando YLLANES | Mr Ayuba WABBA |
| Royaume-Uni de Grande-Bretagne et d'Irlande du Nord | | Mr Zahoor AWAN |
| Rwanda | | Mme Catarina TAVARES |
| Suède | | |
| Tchéquie | | |

► **Contre/Against/En contra: 2**

| Gouvernements/Governments/ Gobierno | Employeurs/Employers/ Empleadores | Travailleurs/Workers/ Trabajadores |
|--|--------------------------------------|---------------------------------------|
| Chine | | |
| Fédération de Russie | | |

► Abstentions/Abstenciones: 8

| Gouvernements/Governments/ Gobierno | Employeurs/Employers/ Empleadores | Travailleurs/Workers/ Trabajadores |
|--|--------------------------------------|---------------------------------------|
| Brésil | Mr Khalifa Khamis MATTAR | |
| Cameroun | | |
| Inde | | |
| Indonésie | | |
| Nigéria | | |
| Ouganda | | |
| Pakistan | | |
