



**Third item on the agenda: Information  
and reports on the application of  
Conventions and Recommendations**

**Report of the Committee on the Application  
of Standards**

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## PART ONE

### GENERAL REPORT

#### A. Introduction

1. In accordance with article 7 of the Standing Orders, the Conference set up a Committee to consider and report on item III on the agenda: “Information and reports on the application of Conventions and Recommendations”. The Committee was composed of 249 members (119 Government members, 39 Employer members and 91 Worker members). It also included seven Government deputy members, 50 Employer deputy members, and 154 Worker deputy members. In addition, 30 international non-governmental organizations were represented by observers.<sup>1</sup>

2. The Committee elected its Officers as follows:

*Chairperson:* Mr. Sérgio Paixão Pardo (Government member, Brazil)

*Vice-Chairpersons:* Mr. Edward E. Potter (Employer member, United States); and  
Mr. Luc Cortebeeck (Worker member, Belgium)

*Reporter:* Mr. Jinno Nkhambule (Government member, Swaziland)

3. The Committee held 19 sittings.

4. In accordance with its terms of reference, the Committee considered the following: (i) information supplied under article 19 of the Constitution on the submission to the competent authorities of Conventions and Recommendations adopted by the Conference; (ii) reports supplied under articles 22 and 35 of the Constitution on the application of ratified Conventions; and (iii) reports requested by the Governing Body under article 19 of the Constitution on the Labour Inspection Convention, 1947 (No. 81), and the Protocol of 1995 to the Labour Inspection Convention, 1947, and the Labour Inspection Recommendation, 1947 (No. 81), the Labour Inspection (Mining and Transport) Recommendation, 1947 (No. 82), the Labour Inspection (Agriculture) Convention, 1969 (No. 129), and the Labour Inspection (Agriculture) Recommendation, 1969 (No. 133).<sup>2</sup> The Committee was also called on by the Governing Body to hold a special sitting concerning the application by Myanmar of the Forced Labour Convention, 1930 (No. 29), in application of the resolution adopted by the Conference in 2000.<sup>3</sup>

<sup>1</sup> For changes in the composition of the Committee, refer to reports of the Selection Committee, *Provisional Records* Nos. 4 to 4H. For the list of international non-governmental organizations, see *Provisional Record* No. 3-1.

<sup>2</sup> Report III to the International Labour Conference – Part 1A(I): Report of the Committee of Experts on the Application of Conventions and Recommendations; Part 1A(II): Information document on ratifications and standards-related activities; Part 1B: Labour inspection.

<sup>3</sup> ILC, 88th Session (2000), *Provisional Record* Nos. 6-1 to 5.

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## Work of the Committee

5. In accordance with its usual practice, the Committee began its work with a discussion on general aspects of the application of Conventions and Recommendations and the discharge by member States of standards-related obligations under the ILO Constitution. In this part of the general discussion, reference was made to Part I of the report of the Committee of Experts on the Application of Conventions and Recommendations and to the information document on ratifications and standards-related activities. During the first part of the general discussion, the Committee also considered its working methods with reference being made to a document submitted to the Committee for this purpose.<sup>4</sup> The second part of the general discussion dealt with the General Survey on *labour inspection* carried out by the Committee of Experts. A summary of all aspects of the general discussion is set out in Part I of this report.
6. Following the general discussion, the Committee considered various cases concerning compliance with obligations to submit Conventions and Recommendations to the competent national authorities and to supply reports on the application of ratified Conventions. The Committee held a special sitting to consider the application of the Forced Labour Convention, 1930 (No. 29), by Myanmar. A summary of the information submitted by the Government, the discussion and conclusion is contained in Part III of this report.
7. During its second week, the Committee considered 25 individual cases relating to the application of various Conventions. The examination of the individual cases was based principally on the observations contained in the Committee of Experts' report and the oral and written explanations provided by the governments concerned. As usual, the Committee also referred to its discussions in previous years, comments received from employers' and workers' organizations and, where appropriate, reports of other supervisory bodies of the ILO and other international organizations. Time restrictions once again required the Committee to select a limited number of individual cases among the Committee of Experts' observations. With reference to its examination of these cases, the Committee reiterates the importance it places on the role of the tripartite dialogue in its work and trusts that the governments of all those countries selected will make every effort to take the measures necessary to fulfil the obligations they have undertaken by ratifying Conventions. A summary of the information submitted by Governments, the discussions, and conclusions of the examination of individual cases are contained in Part II of this report.
8. With regard to the adoption of the list of individual cases to be discussed by the Committee in the second week, the Chairperson of the Committee announced that a slightly extended version of the preliminary list of possible cases, which had been sent in May to all member States, was now available.<sup>5</sup> It referred to 42 member States and related to 19 Conventions. As in previous years, the Committee intended to examine the cases of 25 member States, in addition to the Special Sitting concerning Myanmar (Convention No. 29). The Chair also indicated that the Officers had reached agreement on 22 of these cases, which was shown by an asterisk. The names of three other member States from this list would be communicated for adoption by Monday, 5 June at 3.00 p.m. In addition, the Chair recalled that Colombia was on the preliminary list of cases that could have been selected for

<sup>4</sup> Work of the Committee on the Application of Standards, ILC, 95th Session, C. App./D.1.

<sup>5</sup> ILC, 95th Session, Committee on the Application of Standards, C. App./D.4/Add.1.

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discussion. In this regard, the Chair had received a communication containing a tripartite agreement from the Colombian delegation, which read as follows:

In the framework of ILO Conventions Nos. 87 and 98, the Colombian tripartite delegation to the 95th Session of the International Labour Conference, desirous of putting into effect the matters agreed to, declares to the Committee on the Application of Standards that the following agreements have been reached: (a) The Government of Colombia will, with the assistance of the ILO secretariat and with the support of the Workers and Employers, guarantee a renewed presence of the International Labour Organization in the country, through permanent representation of the aforesaid organization, which will have as a priority task technical cooperation aimed at promoting decent work and the defence of the fundamental rights of workers, their trade union leaders, freedom of association and of speech, collective bargaining as well as free enterprise for employers. The parties request the Governing Body to put this agreement into effect and to provide the logistics and structure for its implementation; (b) With regard to technical cooperation, the Colombian Government undertakes to seek economic support that will guarantee the achievement of the proposals made and, to this end, will seek financial assistance from the ILO. With this in mind, the national Government will make available resources to activate and implement the programme. The Government also requests the ILO to take action to obtain additional resources from donor nations and other international organizations, with a view to reinforcing the cooperation programme; (c) In the fight against impunity, the parties have agreed on rigorous follow-up on the results of the special investigation group set up by the Procurator General of the Republic to bring to light abuses of freedom and life of workers and trade union leaders and to punish those guilty; (d) The Colombian Government, the employers and the workers undertake to provide a new impetus to ILO principles with a view to giving effect to fundamental rights at work. In this perspective, the National Commission on Wages and Labour Policies will be convened with a permanent agenda, and the ILO will be requested to provide assistance in the fulfilment of its work. The commitments made today are intended to seize the opportunity offered by the Committee on the Application of Standards to disseminate this agreement and to reaffirm the implementation of ILO policies on cooperation, social dialogue, collective bargaining, trade union freedoms, defence of human and of workers' rights, of freedom of association and freedom of enterprise.

The Chair stated that, in view of the above agreement which seeks to provide a concrete response to the suggestions made by the tripartite high-level visit decided by the Committee, which visited the country in October 2005, and to the comments of the Committee of Experts, the Officers had decided that the case of Colombia would not need to be discussed by the Committee this year. The Chair congratulated the tripartite delegation of Colombia on this historic agreement.

9. The Worker members welcomed the agreement concluded between the social partners and the Government of Colombia. They believed that this agreement would relaunch the social dialogue in the country and pointed out that this was an inspirational example of work carried out by various mechanisms of dialogue offered by the ILO and, in particular, of missions to the country.
10. The Employer members invited the Committee to extend a standing ovation to the Colombian delegation. They highlighted that there was in fact an alternative to a discussion by the Committee. The tripartite agreement between the Colombian Government, Worker and Employer representatives was extremely significant for the Committee. The Employer members urged that other countries should follow this example.
11. Moreover, with regard to the list of individual cases to be discussed during the second week, the Worker members stated that of the proposed 41 possible cases, a choice had been made for 22 cases plus one, and that a decision would be taken at a later stage on a maximum of three additional cases. On the basis of the Governments' reports and the comments of the Committee of Experts, it was for the Worker members, in agreement with the Employer members, to propose a selective list of cases to the Committee that was both

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balanced and permitted an exchange on the application of the Conventions in national legislation and practice.

- 12.** Even though the Committee of Experts' report was available and accessible to the public already in the month of April, allowing Governments time to prepare themselves and adopt the requested measures, the Worker members wished to give a positive answer to certain demands expressed in previous years to present a list of cases at an earlier stage of the Conference. In agreement with the Employer group, the Worker group had requested that a list of 41 preliminary individual cases be circulated before the beginning of the Conference, without this in any way being final since the Conference Committee was responsible for the final adoption of individual cases. In addition, the fact that the Conference was going to be of a shorter duration this year gave less time for the groups to reach a final agreement with respect to the total number of cases to be dealt with.
- 13.** During their deliberations, the groups had taken into consideration all criteria known and thoroughly discussed in the past, such as the equitable distribution of Conventions, geographic factors and above all the seriousness and scale of established violations and problems. An agreement was finally reached on 22 individual cases, to which the case of Myanmar was added for a discussion of the Forced Labour Convention, 1930 (No. 29), at a special sitting. Initially the groups contemplated 25 individual cases in addition to that of Myanmar. However, in three cases negotiations were still ongoing with a view to reaching mutual agreement. The fact that three more cases had to be presented to the Committee should not give rise to any difficulties, since the countries concerned had already been informed of the possibility of their selection through the distribution of the preliminary list.
- 14.** Among the selected cases, nine concerned situations where the Committee of Experts had, in a footnote, requested the Governments to supply concrete information to the Conference on what measures they could take to address the matters raised by the Experts. In particular the Worker members were interested to read the information provided by the Government of Paraguay on the Night Work of Young Persons (Non-Industrial Occupations) Convention, 1946 (No. 79), and on the Night Work of Young Persons (Industry) Convention (Revised), 1948 (No. 90). Indeed, this case had not been retained on the list since the Government should now indicate the measures taken as a result of last year's discussions. In the absence of such information, the Committee would have to come back to the questions concerning the protection of children and adolescents. Moreover, out of respect for the respective roles of the Committee of Experts and the Conference Committee, the Workers wished to take up the comments given by the Experts through the footnotes. Nonetheless, due to time constraints, a large number of cases could limit the choice of cases or could obstruct the synergy between the two Committees, and it would be necessary to improve the manner in which they interacted. A solution would be to request the States invited to provide explanations to the Conference to do this before the Conference Committee began its work.
- 15.** In this respect, the Worker members wished for a discussion concerning the cases examined in the past and where Governments were requested to take initiatives with, where appropriate, technical assistance of the ILO. The representative of the Secretary-General had provided preliminary indications that showed positive results obtained from missions carried out as requested last year by the Committee and it would have been important to have had the opportunity to discuss and examine persisting problems. Indeed, the search for solutions through dialogue was the most effective means for achieving results and, besides the 22 cases plus one, it was important that negotiated agreements could be reached in all other cases. This would establish a basis for progress for certain cases on the preliminary longer list. In this respect, the agreement reached for Colombia showed the potential of the ILO in general, and of social dialogue and missions, in particular.

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16. The Employer members endorsed the statement by the Worker members and encouraged Governments that were not marked with an asterisk on document D.4 to work out the issues raised through social dialogue. The Employer members commended the Worker members for providing, through the secretariat, a preliminary list of cases almost two weeks before the Conference. It was to be hoped that, as the preliminary list had given governments adequate notice and time to prepare their cases by the beginning of the second week of the Conference, it would be possible to avoid the experience of the previous year when half of the cases were discussed and the conclusions reached on the last two days of the Committee's work. Nevertheless, even if the governments on the list participated earlier, there was still an earnest need for a rigorous time management strategy. The time available during the second week, which amounted to 45 hours, meant that there were slightly less than two hours for each of the 25 cases examined, including the special session on Myanmar. A two-hour limit should therefore be placed on the discussion of each case and the adoption of conclusions, with the speaking time of individual speakers adjusted accordingly.
  17. The Employer members also noted that although the Conference Committee had not yet adopted the list of individual cases, there was clearly a need for a greater diversification in the cases examined. It would be necessary to go back to the system that existed at the time of the Cold War, under which the Committee alternated between years in which half of the cases concerned freedom of association and the following year in which the list of cases was much lighter on freedom of association, thereby permitting consideration of cases involving other Conventions. Returning to such a system would broaden the subject matter of the cases examined to include important technical standards, such as occupational safety and health, as well as cases of progress. Such a system would undoubtedly expand and provide greater balance in the list of countries appearing before the Committee. They concluded by recommending the list of individual cases for adoption.
  18. Following the discussion on the draft list of individual cases to be examined, the Committee adopted the list (document D.4/Add.1). The Committee subsequently adopted three additional individual cases selected for examination by the Committee (document D.4/Add.2).

### ***Working methods of the Committee***

19. With regard to the criteria to be used in the selection of individual cases, the Employer members were of the view that, clearly a balance was needed in regional terms and between developing and developed countries. The extent of the violations was also an important factor. Although in certain cases the criteria used might appear inconsistent, they were basically extremely viable. They included the comments of the Committee of Experts, the quality of the replies by the government, or indeed the absence of replies, as many of the comments of the Committee of Experts were intended to seek information, often over several years. They also included the seriousness and persistence of shortcomings in the application of Conventions, the urgency of the situation and the comments made by the employers' and workers' organizations. Finally, other criteria consisted of the previous discussions and conclusions of the Conference Committee, and particularly whether the case had been highlighted in a special paragraph, as well as the likelihood that discussion of the case would bring about an improvement. If the criteria used by the Committee of Experts for double footnotes were compared with those used by the Conference Committee in selecting the list of individual cases, it had to be recognized that almost the same cases would probably be selected.
20. The Employer members noted the explanation of the criteria used by the Committee of Experts concerning special notes. The criteria and process for the special notes appeared to be reasonable, with much evident discretion in their application. While the number of

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single footnotes was consistent with previous years, the number of double footnotes, at 13, was strikingly high this year. This had the potential consequence of supplanting the role of the Conference Committee in determining the governments which should appear before the Committee. In 2005, there had been a total of three double footnotes. To put this in perspective, they recalled that during the Cold War era, when on one occasion there had been nine double footnotes, the Conference Committee had complained that its political function was being usurped. Since then, the Committee of Experts had never again footnoted so many observations. In view of the large number of observations in the report, a certain differentiation was appropriate. However, the Committee of Experts should not assume that its mandate included predetermining the list of cases. While the criteria developed in paragraph 37 of the Report of the Committee of Experts were not unreasonable, further clarification should be given for the specific rationale for special notes, and particularly double footnotes, in individual cases, so as to ensure that the reasons were much more transparent to the Conference Committee. In the view of the Employer members, when developing the criteria for the special notes, the Committee of Experts should have sought input from the Conference Committee. A high number of footnotes could be seen as interfering with the right of the Conference Committee to make its own selection of cases according to its own preferences and priorities, especially in view of the limited time available to discuss individual cases. Faced with the high number of double footnotes, the Conference Committee had two options: they could be taken merely as proposals; or the Committee of Experts could agree with the Conference Committee on a maximum number of double footnotes.

- 21.** In relation to footnotes, the Worker members thanked the Committee of Experts for establishing the criteria that it would take into account in determining cases for which special notes would be applied, particularly in calling for full particulars to be provided to the Conference at its next session. In the view of the Worker members, these criteria would make it possible to improve the work of the Committee of Experts and to demonstrate transparency in its work. In paragraph 37 of its General Report, the Committee of Experts enumerated these criteria, which related to the existence of one or more of the following matters: the seriousness of the problem; the persistence of the problem; the urgency of the situation; and the quality and scope of the government's response in its reports. Although these criteria were of an indicative nature and took into account the specific circumstances of the country, they gave an overview of the methods of work of the Committee of Experts in determining the cases in which special notes would be used. This year, the Committee of Experts had requested ten countries to provide full particulars to the Conference on 13 Conventions. This number represented almost half of the cases that could be examined by the Conference Committee. While recognizing the impartiality of the Committee of Experts, the Worker members hoped that next year they would once again have greater freedom in establishing the list of individual cases.
- 22.** The Government member of the United States, speaking on behalf of the Government members of the Industrialized Market Economy Countries (IMEC), recalled IMEC's consistent welcome of the review of, and adjustments made to the Conference Committee's methods of work for a number of years, which had helped to make the work of the Committee more efficient and transparent, especially with regard to the way in which its conclusions were developed. She expected that additional adjustments could and would be made, with particular attention being given to better time management. She commended the efforts made by the Worker members, in consultation with the Employer members, for the early development of the list of individual cases and its circulation ten days before the opening of the Conference. Additional time was thus given to Governments for their preparation ahead of a possible discussion of their cases. She indicated that proper preparation was essential for a genuine tripartite dialogue to be attained in the examination of cases, which should also have the effect of focusing and shortening discussions of the cases.

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23. Regarding methods of work, the Government member of Mexico referred to the correspondence addressed by the Office to all member States in order that the provisional list of individual cases be known as soon as possible. The wording of the Office's correspondence had been a cause for concern to its delegation for the following reasons: the Office did not specify who the social partners were; it was not clear why the Office had not simply circulated the list agreed upon by the employers' and workers' organizations rather than sending a list that was presented as being "tentative" and "preliminary" in its correspondence and as "exhaustive" in the accompanying table; the Office presented its concerns about the possible pressures on trade unions as its own and spoke about them in a general manner in its communication. The terms of the communication were therefore considered to be totally inappropriate. The speaker wished to express her strong disapproval of such practices. In future communications to the authorities of her country, the Office should avoid echoing suspicions, which had not been identified and were inconsistent with the social dialogue and culture as practiced in Mexico.
24. Moreover, when selecting individual cases, the Conference Committee should: respect regional balance in the selection of cases; examine a balanced number of developing and developed countries; select cases in a balanced manner among the 12 fundamental and priority Conventions and the technical Conventions; avoid dealing with cases that had already been examined the previous year and were not considered to be very serious; and avoid dealing with cases that had already been the object of examination and follow-up by the Governing Body and the Committee on Freedom of Association. These were criteria that could easily be agreed upon and accepted by all the groups of this Committee. She urged the Office to continue consulting all the parties concerned so as to reach a balanced and reasonable outcome that would be beneficial to the credibility of the supervisory mechanism. Furthermore, the Committee should also accept and implement the suggestions formulated by its Chairperson in June 2005 regarding the examination and adoption of conclusions of individual cases which were as follows: the discussion of individual cases should have a reasonable duration so as to allow a balanced discussion of all the cases concerned; all the interventions should reflect the terms of the observations contained in the report of the Committee of Experts; the conclusions should reflect the opinions expressed in the discussion – the conclusions could thus avoid descriptions and repetitions; and the conclusions should be drafted in simple terms so they could have an impact and be applied.
25. The Government member of Egypt noted that her delegation had asked on previous occasions for the list of cases to be distributed in advance so that countries could prepare their responses. While she welcomed the fact that a list of potential cases had been distributed, she noted that the list was non-exhaustive. The problem remained that there were many cases and little time for governments to prepare. The speaker stressed the importance of geographical balance in the selection of cases and the distribution of cases between fundamental and technical Conventions. The Government member of Lebanon considered the distribution of the preliminary list of individual cases to be a positive step. She stated that this was the result of constructive dialogue amongst the constituents and demonstrated the relevance of dialogue in reaching common ground on labour issues.
26. The Government member of Malaysia, speaking on behalf of the Non-Aligned Movement (NAM), reiterated NAM's concerns over the manner in which cases before the Conference Committee had been selected and the perception that the working methods and procedures of the Committee disadvantaged some groups of countries in relation to others. NAM welcomed the ongoing efforts by the ILO to improve the working methods and procedures of the Committee but noted that there remained considerable scope for further improvement. The speaker called for enhanced transparency, objectivity and credibility of the Committee in fulfilling its mandate and stressed the need to ensure fairness in the Committee's procedures to all members of the ILO and the social partners. With respect to



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the composition of the Conference Committee, NAM advocated the election of a third Vice-Chairperson from the Government group, who could assist in drafting the conclusions of the Committee. This was all the more important as the Chairperson of the Conference Committee, who was from the Government group, was expected to remain impartial and neutral.

27. Turning to methods of adoption of the list of individual countries, the speaker proposed that an agreed number of governments be invited as observers to the meeting of the social partners when the selection of cases was undertaken, with a view to adhering to the principle of tripartite consultations and ensuring transparency. He also stressed the importance for the selection to be made on the basis of equitable geographical balance, balance between developed and developing countries as well as balance between fundamental and technical Conventions. Finally, he expressed the view that the list should be released in April.
28. To avoid vilification of speakers, NAM suggested the adoption of a code of conduct governing debate at the Committee. Given that governments were called upon to respond to allegations made by the social partners, Government representatives should be afforded twice as much time as that allocated to the Worker and Employer members, respectively. Moreover, Governments should also be given the opportunity of final rebuttal to the responses of the social partners. Finally, with respect to the drafting and adoption of conclusions, the speaker noted that the perception persisted that the conclusions of the Committee were pre-drafted and requested that the debate be correctly reflected in the conclusions. If indeed the conclusions were not pre-drafted, then the argument for a third vice-chairperson coming from the Government group was even more valid as he or she could assist the Officers in the drafting of the conclusions.
29. The Government member of Cuba stated his appreciation for the attitude of the social partners in having answered the call of governments to have the list of countries which might have to answer to this Committee in sufficient time. He underlined the importance of a preliminary list in order to improve the work of the Committee. In this sense, he appreciated the contribution of the Committee of Experts to invite ten countries to appear before the Conference Committee. The working methods of the Conference Committee should completely conform to the essential character of this Organization: tripartism. They should be characterized, moreover, by maximum transparency in order to lend the necessary credibility to its decisions. The working methods of this Committee had given rise to much concern by many governments, especially of the NAM and the developing countries in general. Progress had been made in advancing the list of possible cases so that countries would have enough time to respond to allegations, but no progress had been achieved regarding transparency and credibility. He wondered on what grounds cases had been selected which appeared on the final list, which arguments had been taken into account, and if there had been a fair selection which corresponded to the interests of the world of work. Nobody knew anything in this regard. NAM had made a proposal to include representation of Governments in the final phase of negotiations between the Worker' and Employer' groups. This proposal did not aim to encroach on the independence of any group; for this reason the proposal sought the participation of governments in an observer capacity, without voice or vote.
30. The speaker affirmed that the just concerns of the NAM countries should be taken into account in the context of tripartism that characterized the ILO, so as to reinforce the Committee's working methods, and achieve objectivity, transparency and credibility. It was no longer possible for the ILO to continue working with such anti-democratic methods. The range of problems to be analysed was very wide and included the selection of the Convention on which countries must supply information under article 22 of the ILO Constitution, its analysis by the Committee of Experts, the so-called automatic cases, the

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selection of cases for the list and the working methods of the Committee. A working group was addressing the issue of improving the Conference, but the Conference Committee and its working methods had to be dealt with directly by the Conference Committee; on this point he referred to article 7 of the Standing Orders of the Conference. In conclusion, he proposed: (1) the creation of a tripartite group to analyse the problems of working methods in relation to transparency and credibility; (2) the preparation of a series of proposals, and (3) that this series of proposals should be analyzed, discussed and, if possible, adopted in June 2007.

- 31.** The Government member of the Bolivarian Republic of Venezuela expressed his full support for the statement by the countries of the NAM and wished to draw the attention of the Committee to the efforts undertaken in achieving greater transparency. With respect to the criteria applied to the selection of countries to be examined, the focus should be on the efforts undertaken by members to ensure decent working conditions and the full protection of workers in order to achieve dignified and decent working conditions through the respect of laws. Secondly, the Committee of Experts had established technical criteria, free from political biases. This Committee should act in consequence and avoid at all costs such political biases since they negatively impacted its image, visibility and credibility. He expressed his gratitude to the International Labour Standards Department for its dedication and efforts towards developing improved working methods and to the groups for their continued work in search of transparency to improve the work of the Committee.
- 32.** The Government member of Japan, speaking on behalf of the Asia-Pacific group (ASPAG), expressed his belief in the ILO's supervisory mechanisms as an important pillar for ensuring the implementation of international labour standards, and that they formed the core of the ILO's activities. He also believed in the important role played by the Conference Committee in the International Labour Conference. He welcomed the adjustments made which rendered the Committee's work more transparent and efficient, and indicated that the appropriate selection of cases would truly contribute to the ILO's activities for "decent work for all". He voiced his appreciation of the circulation of a tentative list of individual cases to all member States, which demonstrated significant progress in enhancing transparency in the Conference Committee and enlivening its discussions. He hoped that the authority of the Conference Committee would be strengthened by these improvements, which would in turn enhance the ILO's activities.
- 33.** The Government member of Bahrain, speaking on behalf of the member Governments of the Gulf Cooperation Council (Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, United Arab Emirates and Yemen), welcomed the serious efforts made to develop the methods of work of the Conference Committee in order to ensure a balanced tripartite participation. He suggested that Governments be given a specific role in identifying the criteria used in the selection of individual cases, in collaboration with the Employer and Worker members, and reiterated the proposal made by the Government group in the Governing Body, with regard to the participation of governments as observers in discussions for the determination of the individual cases. Secondly, there was the need for the formulation of clear and specific criteria for the selection of individual cases, which should be circulated before the beginning of the Conference Committee, which would enable a better and timely response by governments.
- 34.** Regarding the working methods of the Conference Committee, the Government member of Brazil expressed his appreciation for the initiative to communicate a preliminary list of the countries that would be invited to provide information on their compliance with standards. He continued to be concerned about achieving a greater balance between regions and subjects in the formulation of the list. There were many cases in the list concerning issues for which the Governing Body had specific bodies to the detriment of other Conventions of a technical nature that were equally important in the world of work. This was a point that

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could be improved upon through tripartite dialogue. Finally, he said that his country was committed to contributing to improving the working methods of the Committee.

35. The Government member of Norway, also speaking on behalf of Government members of Denmark, Finland, Iceland and Sweden, hoped that the relevant bodies, especially the newly established Governing Body Working Group on improvements in the functioning of the ILC, would take into consideration the suggestions made by the IMEC and Nordic governments over recent years to improve the work of the Committee on the Application of Standards.
36. The Government members of Italy and Japan endorsed the statement by the IMEC group. With regard to the supervisory mechanisms, the Government member of Italy noted with interest that the principal supervisory bodies were reviewing their working methods with a view to strengthening their working methods. The Government member of Japan expressed appreciation of the tentative list of individual cases sent in advance of the session of the Conference Committee, which would enhance transparency and help the preparation by governments with cases for possible examination. However, he regretted that the selection of individual cases now appeared to be done based on political criteria, such as regional balance, the balance between developing and developed countries, and the intensity of requests from trade unions and so on. He feared that such a trend would undermine the credibility of the Committee. He expressed his Government's view that the selection of individual cases should be done in accordance with the extent of violations of ILO standards, and that the proper selection of cases would contribute to the ILO's activities for "decent work for all".

## **B. General questions relating to international labour standards**

### ***General aspects of the supervisory procedure***

37. First of all, the representative of the Secretary-General provided information on the state of international labour standards and the overall responsibility of this Committee for considering the extent to which such standards were implemented. She pointed out that the Standing Orders of the International Labour Conference did not specify how the Committee was to perform its work and had thus given it a dynamic mandate with considerable discretion to adapt its action to the changing needs of the international environment. The Committee could draw on multiple sources: practical, doctrinal, economic, legal, a broad policy viewpoint, etc., in its reflection on measures States have taken or are taking. So, it was for this Committee itself to decide how to best achieve the Organization's objectives with respect to both ratified and unratified Conventions (under Article 7, paragraph 1(a) and paragraph 1(b) respectively)). It was also important to note that this Committee was responsible for a process in which there were several important actors besides itself. At the international level, the Committee of Experts and the International Labour Office were this Committee's main partners. However, the efficacy of the action of these international bodies (Committee on the Application of Standards, Committee of Experts, International Labour Office) would greatly depend on the usefulness of the information provided in the reports under article 22 and article 19 of the ILO Constitution. This information was not just presented by governments, but was complemented by the comments from the national employers' and workers' organizations concerned and by the relevant international organizations. All these participants formed an integral part of the process of ensuring that international labour standards were implemented in practice. But there were still other actors: this was in fact reflected in the second part of the injunction in paragraph 1(a) of article 7 of the Standing Orders to consider the information furnished by Members concerning the results of inspections. As

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the mandate set forth in the Standing Orders was almost centennial, this latter consideration would be framed today in terms of a quality control on the implementation of standards, which was carried out by the Members themselves. In this regard, the new Maritime Labour Convention, 2006, embodied the twofold concept of Members not only implementing the standards set out in the Convention, but also taking measures to ensure that they were being implemented. This instrument was an outstanding example of a tripartite agreement on decent work in the context of fair globalization. In this regard, it was of great importance that the concept of decent work was reaffirmed by the United Nations as a “global objective” in paragraph 47 of the text adopted at the 2005 World Summit by the Heads of State and Government.<sup>6</sup> This was clearly a beacon toward officializing the status of decent work as a universal concept. The extent to which States had integrated decent work in terms of measures taken and being taken – along with quality control – might form some of the elements this Committee may wish to review within the scope of its dynamic mandate.

- 38.** The representative of the Secretary-General pointed out that there was improvement by Members in the fulfilment of their reporting obligations, with an increase of 5 per cent in reports received (69 per cent in 2005 compared to 64 per cent in 2004), although the 2004 statistics was slightly lower than the previous year. There was increased use of the mechanisms provided by the system: 577 observations received from employers’ and workers’ organizations since the 2005 International Labour Conference, up from 533 in 2004 and 297 in 2003. There was a slight increase in the number of cases of satisfaction identified by the Committee of Experts, but more significantly this increase was spread over a larger number of Members who were responding to the comments of the supervisory bodies and fulfilling their obligations under Conventions.
- 39.** She then pointed to innovative action taken on two important points concerning the functioning of the supervisory bodies and presented in a document to the Governing Body at its 295th Session (March 2006) on improvements in ILO standards-related activities. As regards this Committee, one of the most frequently discussed questions had been that of the list of individual cases and the date when such a list would be made available. Governments had requested early publication of a provisional list so that they may better prepare themselves for a possible appearance before the Committee. Following tripartite consultations on this point, a preliminary, non-exhaustive list was drawn up by the social partners and communicated by the Office to all member States on 22 May 2006. The list refers to 41 States and the application of 19 Conventions. The covering letter clearly stated that “this list can in no way be considered definitive, as this is a function that only the Conference Committee can assume”.
- 40.** Regarding the Committee of Experts, a further step in improving the transparency of its working methods was taken with the formalization of criteria concerning cases of progress and the use of footnotes. Further information on these points could be found in the report submitted to the March 2006 session of the Committee on Legal Issues and International Labour Standards.<sup>7</sup> The 2,484 cases of satisfaction cited by the Committee of Experts since it began keeping records in 1964 are indicators of progress on the part of States to better implement standards, illustrating the dynamic mechanism of the supervisory system over time.<sup>8</sup> Moreover, to mark the 80th anniversary of the establishment of the Committee of Experts later this year, the Standards Department would be organizing a colloquium on

<sup>6</sup> Cited in document GB.294/2/1(Add.).

<sup>7</sup> Document GB.295/LILS/5, paras. 4 and 5.

<sup>8</sup> For further information concerning cases of progress, see Report of the Committee of Experts, 2006, paras. 42-47.

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24-25 November 2006 concerning the effectiveness of supervision in the international legal system.

41. Finally, the representative of the Secretary-General proceeded to provide detailed information on the Maritime Labour Convention, 2006, whose adoption in February 2006 marked a watershed in ILO standard setting and treaty law.<sup>9</sup> She explained that this Convention embodied the substance of 68 maritime labour instruments adopted since 1920. There were two features that were particularly relevant to the process of facilitating and supervising compliance with the standards that it contained. One was its careful balance between firmness with regard to the principles and rights it sets forth and the flexibility given to ratifying Members with respect to the way in which those rights would be delivered. The other main feature that was particularly relevant to the compliance aspect was the active participation of all concerned: seafarers, shipowners, and governments (flag, port and labour-supplying States) in implementing and monitoring the Convention's standards. More generally, she informed the Committee that the Maritime Labour Convention, 2006, had received its first ratification with the registration of the instrument of ratification by the Government of Liberia.
42. In conclusion, the representative of the Secretary-General underlined that, in order to have the best possible system for ensuring the proper implementation of international labour standards, all the various actors should be involved in the supervisory process. In her view, the best possible ILO advisory and operative energies converged in the domain of technical assistance and technical cooperation that may well be the most fundamental and dynamic mechanism of all. The previous year, this Committee identified 19 technical advisory missions to assist countries in better implementing ratified Conventions. Nine of these missions had been completed and there were preliminary indications of positive results. Sometimes this assistance just meant clarifying misunderstandings that may exist. Where there were serious problems, one had to identify whether these were structural or conjunctural in order to know how to best respond. Technical cooperation was concrete action – and it was to that purpose that the Organization must direct its resources. Technical cooperation – between the ILO's constituents or as services provided by the Organization through the International Labour Office – was one of the most important, one of the most dynamic, and one of the most gratifying aspects of the Organization's mission in translating international labour standards into decent work.
43. The Committee welcomed Justice Robyn Layton, Chairperson of the Committee of Experts. She noted a number of changes in the composition of the Committee of Experts, including the retirement of Mr. Mesquita Barros, as well as the appointment of four new members, Professor Ackerman, Justice Barrow, Justice Koroma and Justice Pal. It was important that the Committee of Experts continued to be replenished but at the same time maintained some continuity to ensure that necessary experience was not lost. She further indicated that, although there had been some marginal improvement over the last two years with the receipt of timely reports, still only a little over one-quarter (26.38 per cent) were received by the due date. This remained a problem for the effectiveness of the work of the Office and it also impacted on the work of the Committee of Experts, particularly in relation to first reports. The process of the supervisory mechanisms was reliant on adequate and timely reports. The rise in ratifications had increased the number of reports to be processed. A sudden influx of reports at the last moment adversely impacted on the ability of the supervisory bodies to respond promptly to situations of failure to comply with the Conventions. While she agreed that, in general terms, there had been an

<sup>9</sup> See International Labour Conference, 95th Session, Committee on the Application of Standards, C.App./D.2.

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improvement each year in the numbers of cases of progress, which was an important indicator of the positive impact of the supervisory mechanisms, there were still very serious violations of the Conventions currently taking place. The supervisory bodies should therefore be constantly thinking of ways in which these violations could be prevented or stopped. Innovative ways should be considered to enhance the supervisory measures to better assist that outcome.

44. She further pointed to some important additions to the content of the General Report, which were contained between paragraphs 33 and 47 and which reflected extensive discussions within the Committee of Experts. They articulated, in part, the past practices of the Committee of Experts, for example the information about observations and direct requests and the effect of special notes (traditionally termed “footnotes”, which were commonly referred to as single footnotes or “double” footnotes) as described in paragraphs 34 and 35. In another part, the additions were a clarification and expression of what were previously implicit but unexpressed factors in the decision-making process of the Committee of Experts. Finally, some of the additions set out the agreement reached by the Committee of Experts as to the process it would follow in deciding the cases for footnotes. With respect to the latter, she particularly highlighted the description of the criteria for identifying the cases for the insertion of footnotes. Referring to paragraph 36 of the General Report, she explained that these criteria were indicative and that in exercising its discretion in their application, the Committee of Experts could also have regard to the specific circumstances of the country and the length of the reporting cycle. The criteria were applicable to both the single and double footnotes, and, finally, a serious case otherwise justifying a double footnote might be given a single footnote where there had already been a recent discussion of that case in the Conference Committee on the Application of Standards.
45. She further explained that the criteria to which the Committee of Experts had regard in deciding to add a footnote were the existence of one or more of the following matters: the seriousness of the problem, viewed in the context of a particular Convention and taking into account matters involving fundamental rights, workers’ health, safety and well-being and any adverse impact on workers and other categories of persons; the persistence of the problem; the urgency of the situation, which was necessarily case-specific according to standard human rights criteria; and the quality and scope of the government’s response in its reports, or the absence of response, to the issues raised by the Committee of Experts, including cases of clear and repeated refusal on the part of the member State to comply with its obligations. With respect to the cases in respect of which the Committee of Experts would attribute a double footnote, a two-stage process would apply. First, the expert initially responsible for a particular group of Conventions could recommend the insertion of a double footnote, after which the Committee of Experts would take a final, collegiate decision on all of the double footnotes to be inserted, once it had reviewed the application of all the Conventions. This decision would not be limited only to cases that had been recommended by the responsible expert.
46. The speaker also indicated that the Committee of Experts was continuing to review its working methods through its Subcommittee on Working Methods. In this respect, a topic of continuing discussion concerned the question of including a country-based approach when carrying out its supervisory work. While not a matter which rested wholly with the Committee of Experts, it was an endeavour to seek ways of further improving the quality of its work by having a better and more detailed appreciation of the application of the Conventions within countries having regard to their overall economic and social circumstances. Finally, she wished to acknowledge the importance of the continuing dialogue and connection between the Committee of Experts and the Conference Committee. This was made possible through the presence and addresses of the two Vice-Chairpersons of the Conference Committee at one of the plenary sessions of the

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Committee of Experts and the opportunity given to her to address the Conference Committee during its discussion of the General Report and the discussion of the General Survey. This collaboration was very important for increasing the understanding and effectiveness of the supervisory roles of the respective committees.

47. The Employer members and the Worker members, as well as all Government members who spoke, welcomed the presence of the Chairperson of the Committee of Experts in the general discussion of the Conference Committee.
48. The Worker members welcomed the good interaction and collaboration between the Committee of Experts and the Conference Committee which they considered to be essential. Despite their different roles, these two committees shared the same objectives, and their smooth functioning continued to be vital to the success of the ILO supervisory system.
49. With regard to the changes made to the presentation of the report of the Committee of Experts over the past three years, particularly to make it more readable and functional, the Worker members were pleased to note that the changes had been successful. The report was not only intended for experts, but for all those concerned, including workers and employers. Nevertheless, there continued to be a series of shortcomings. The Worker members regretted that, for the second consecutive year, there was no in-depth examination in the report of the Committee of Experts of a specific subject, salient events or major trends in the application of international labour standards. It would be desirable for the Committee of Experts to recommence its examination of specific themes, which were valuable in placing emphasis on less visible Conventions. Furthermore, the General Report was becoming empty and losing its purpose, namely to establish a dialogue between the Committee of Experts and the Committee on the Application of Standards and to analyse the ILO's standards policy in qualitative terms.
50. With regard to issues of substance, the Worker members noted with pleasure that the Committee of Experts had discussed several aspects of its work in the context of its impact within the overall ILO supervisory system and that it had commenced in-depth discussions on the strengthening of its supervision of the application of ratified Conventions, and particularly the issue of adopting a country approach for its supervisory work. The Worker members expressed their interest in this approach and indicated that a more personalized approach could only strengthen the work of the Committee of Experts, as well as that of the Conference Committee and, as a result, of the ILO supervisory system as a whole.
51. Turning to cases of progress, the Worker members welcomed their visibility in the report of the Committee of Experts. Although the role of the latter consisted of supervision, it was not a tribunal and discussions of individual cases had to be held in a climate of promoting improvements in both law and practice in the implementation of international labour standards. Cases of progress could therefore act as a model for all countries, which had not yet implemented the provisions of the Conventions that they had ratified. With regard to the measures taken by governments and the progress achieved by them, the Worker members had requested the Committee of Experts to specify the criteria it used in expressing satisfaction or interest. In its report, the Committee of Experts specified that an indication of progress could refer to different types of measures. Accordingly, when it expressed satisfaction, the Committee of Experts was indicating to governments and the social partners that, in its view, the specific problem was resolved. However, it was important for the problem to be resolved not only in law but also in practice.
52. Finally, with regard to the observations made by the social partners, it was important to note that this year 577 observations had been supplied, of which 510 were from workers' organizations. This figure showed clear progress in relation to the previous year. The

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continuous action of employers' and workers' organizations at the national level showed that the Conference Committee was playing a role in supervising the implementation of international labour standards. The Worker members believed that the growing interest among workers' organizations in making observations on the application of Conventions confirmed the confidence shown by workers in the role of the ILO and international labour standards. The Committee of Experts had little option but to take these observations fully into account.

- 53.** The Employer members complimented the Committee of Experts on the improved readability of the observations and the general part of its report, which would enhance consideration of the cases. In paragraphs 42-47 of its report, the Committee of Experts dealt with cases of progress and provided greater clarity as to its meaning when expressing "satisfaction" or "interest". The Employer members reaffirmed their strong belief that greater attention should be paid to cases of progress. The practice of the Committee of Experts in noting cases with "satisfaction" might be somewhat uneven in its implementation, since it appeared to be easier to achieve satisfaction where the problem was more substantial and extensive, but less easy when the country was closer to full implementation. In the view of the Employer members, progress was always progress and should be acknowledged whenever possible.
- 54.** With regard to the relative roles of the two Committees, the Employer members drew attention to a distinction drawn in the report of the Committee of Experts, on page 3, with which they did not agree. While the Conference Committee made regularly use of the preparatory work of the Committee of Experts, it was not pre-empted by it. The content of the work of both Committees was almost identical. The question of whether a member State was honouring the obligations flowing from the ILO Constitution and the Conventions it had ratified could be answered only in the light of legal criteria. Nevertheless, the two Committees acted at different stages. The Committee of Experts conducted a kind of preliminary examination. Its observations regularly constituted the starting point, but did not always mark the end of consultations in the Conference Committee. The Employer members also noted a new or at least an expanded practice by the Committee of Experts of making recommendations in its observations on the procedural action to be taken by governments. This practice and the views of the Committee of Experts on its interpretative role undermined the primary role of the Conference Committee under article 7 of the Standing Orders. With regard to the working methods of the Committee of Experts, the Employer members recalled their comments of the previous year, when the report of the Committee of Experts had been fairly vague on that subject. Despite the reassurances of the Chairperson of the Committee of Experts, the present report was equally vague. Indeed, the reference to a "country-based approach" was particularly vague and mysterious, and there was no indication of a work programme or of any underlying considerations and objectives in this respect.
- 55.** Referring to the section of the report on collaboration with other international organizations and functions relating to other international instruments, the Employer members reiterated their request that this section be moved to the information document on ratifications and standards-related activities, which already contained a section on the Office's collaboration with other international organizations. In their view, the activities reported were not encompassed by the mandate of the Committee of Experts and were being carried out by the Office. They considered that activities undertaken by the Office should not be included in the report of the Committee of Experts, which should be reserved for the work of the Committee. It was also evident that Report III (Part 2) was a report of the Office and should be labelled as such, rather than as a report of the Committee of Experts. The report was well prepared, with particular reference to the country profiles. However, the country profiles should be contained on a single page for each country and should give a longitudinal picture, including references to the observations of the



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Committee of Experts, consideration by the Conference Committee and cases before the Committee on Freedom of Association over a 15-year period. This would facilitate the work of the Conference Committee by providing a fuller picture of the overall implementation of ratified Conventions. Looking back merely to 2005 was too limited.

- 56.** Moreover, it was also clear that the Reader's Note was a product of the Office, and not the Committee of Experts. The Employer members recalled that the previous year they had requested that the Reader's note should provide more history and background on the relationship between the two Committees, and correct the impression that the Conference Committee was ancillary to the Committee of Experts. In particular, they had called for content from the information briefing conducted by the Standards Department to be included in the Reader's Note. Regrettably, the Office had opened up some old wounds by characterizing the role of the Conference Committee as having a "say in the application of" standards and by highlighting the role of the Committee of Experts "to consider and express its views on the meaning of certain provisions of the Conventions". In this regard, they emphasized that the Committee of Experts had been set up by the Conference Committee in 1926. The debate and resolution creating the Committee of Experts had made it very clear that its tasks were purely technical and not judicial. The role of the Committee of Experts was to advise the Conference and its Committee as to the facts, and it was for the Conference to decide upon its attitude and upon what appropriate action it might take or indicate. It had been further specified that the Committee of Experts would have no judicial capacity, nor would it be competent to give interpretations of the provisions of the Conventions, nor to decide in favour of one interpretation rather than another. In the light of the above, the Employer members requested the Office to revert to a more straightforward Reader's Note stated factually and including its pre-Conference briefing, or to abandon the Reader's Note altogether. The Conference Committee had the final responsibility for the supervision of ILO standards, not just "a say" in it.
- 57.** The Government member of the United States, speaking on behalf of the IMEC countries, expressed IMEC's appreciation of the continued efforts of the Committee of Experts to enhance the quality and impact of its report through its improved presentation and structure. The more complete Reader's Note and the explanations of the approach adopted by the Committee of Experts to such issues as footnotes and cases of progress, for example, helped shed light on, and therefore reinforced the Committee of Experts' critical role in the ILO supervisory system. She indicated that a better report of the Committee of Experts report also made for a better Conference Committee, and thanked the Chairperson of the Committee of Experts for her participation in the general discussion of the Conference Committee. She extended IMEC's thanks to the Office for its efforts to return the Committee of Experts to its full operating capacity, but noted that this had not yet been achieved. She hoped that all the vacancies on the Committee of Experts would be filled by its next session. She said that consideration should be given, with due regard to budgetary considerations, to the possibility of increasing the maximum number of experts, which had been maintained at 20 since the late 1970s. The dramatic increase in the number of ratifications, especially of fundamental Conventions, had resulted in an overwhelming increase in workload. The increased number of ratifications had also a drastic impact on the workload of the Standards Department. She recalled that the effectiveness of the Office in supporting the ILO supervisory system had a direct bearing on the credibility of the Organization as a whole. She therefore called upon the Director-General to ensure that the essential work of the Standards Department was among his highest priorities.
- 58.** The Government member of Bahrain, speaking on behalf of the member governments of the Gulf Cooperation Council, commended the report of the Committee of Experts for its impartiality, as well as the presentation made by the Chairperson of the Committee of Experts. He referred to the increased number of ratifications by the Gulf countries of the eight ILO core Conventions. Since the adoption of the ILO Declaration on Fundamental

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Principles and Rights of Work in 1998, there had been 37 ratifications by these countries, 18 of which had been of the ILO core Conventions. He expressed the will of the Gulf Cooperation countries to complete the ratification procedures for all the core Conventions. He also reiterated the need for Arabic-speaking experts specialized in international labour standards both at the Regional Office in Beirut and in ILO headquarters in Geneva, so as to provide technical assistance to member States, and improve the capacity of Arab countries to prepare reports, as well as to train technical officials specialized in that field. Finally, he highlighted the importance of translating the report forms into Arabic, both for reports required under articles 19 or 22 of the Constitution, and on any other questionnaires. He added that it would be more appropriate for Arabic translations to be made at ILO headquarters in Geneva in order to facilitate contacts with all Arab countries and ensure the precision of the terminology. He added that all documents, which had been circulated to members of the Conference Committee, should be provided in Arabic, which was one of the languages of the Conference.

- 59.** The Government member of Portugal endorsed the statement of the spokesperson of the IMEC group and thanked the Standards Department for its work in preparing the report. The results of the supervision of the application of standards were clearly evident, although there was always room for improvement based on the experience of the members of the Committee of Experts and the work of the Conference Committee. Since, for the standards system to be effective, standards-related action had to follow labour trends, it was essential for standards to maintain their relevance and credibility. Further promotion of the system for the application of standards was possible only if the technical cooperation and assistance of the Office was available. However, no measures would be effective without dialogue and tripartite consultation. She referred to the recently adopted Consolidated Maritime Labour Convention as an example of an appropriate strategy. Collaboration between the ILO and other United Nations bodies needed to be strengthened so as to join forces to achieve the Millennium Development Goals and decent work. With regard to the standards-related obligations of countries, she welcomed the progress made in relation to the increase in the number of ratifications and reports received, the increased number of cases of progress and the number of countries that, according to the Committee of Experts, had adopted appropriate measures. She added that Portugal had ratified the Part-Time Work Convention, 1994 (No. 175). Her country would support any initiative for the review of standards at regular intervals by a working group, such as the Cartier group, to ensure the relevance of technical standards. Such a group should also undertake a more in-depth analysis of the reasons why certain Conventions were not being ratified and make recommendations to encourage their ratification.
- 60.** The Government member of Lebanon commended the Committee of Experts on the improvements to its report. However, she emphasized that despite the four new members of the Committee of Experts, the total number of members remained unchanged, which was inadequate in relation to the workload, and geographical balance. She indicated that the countries represented on the Committee of Experts had practically been the same for a number of years, and wondered whether it would be possible to envisage reducing the term of the mandate of the Committee of Experts. In this context, she expressed her hope that Arab countries would be represented more strongly on the Committee of Experts. The possibility of increasing the number of members deserved special examination by the Governing Body since the work of the Committee of Experts had increased over the years. In its desire to reinforce its supervision of the application of ratified Conventions, the Committee of Experts was proposing to adopt a new approach called the “country-based approach”. This raised the question of the purpose of the new approach, which appeared to increase the workload of countries that had ratified a large number of Conventions. She requested clarifications on the above points.

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- 61.** She raised the issue of the presence of international labour standards specialists in the regional offices, especially in the Regional Office in Beirut, which had had no international labour specialist for more than three years. The allocation of the necessary financial resources to fill the vacant posts in such offices should be one of the ILO's priorities. She stated that Lebanon had complied with its obligations arising from articles 19 and 22 of the ILO Constitution. She thanked IPEC on its efforts made in the second phase of the Programme on combating the worst forms of child labour in Lebanon. In this context, she added that the allocation of additional funds to the Regional Office in Beirut would be welcome, as they would support activities which might interest other Arab countries. She finally reiterated the importance of revising the Arabic text of article 24 of the ILO Constitution.
- 62.** The Worker member of France recalled that the Worker members greatly valued the independence, objectivity and impartiality of the Committee of Experts. Furthermore, its reports appropriately reiterated that the provisions of a given Convention had to be complied with regardless, of the economic and social conditions of the country. The ILO standards policy should not be subjected to any economic considerations. Labour regulations, however, were increasingly being questioned on the pretext that they constituted an obstacle to entry to the labour market or to the flexibility required by a globalized world. As mentioned in the report of the Chairperson of the Governing Body, this theory, which was supported by the World Bank, was dangerous. Certain recent reforms, or rather "counter reforms", of national labour regulations implied or considered that the exercise of the right to organize and to collective bargaining, or the protection of workers in the event of termination of employment, principles established by ILO Conventions, hindered employment. This type of reasoning was that of reduced labour costs based on "social dumping" and was contrary to the concept of "decent work", the importance of which had been emphasized by the Director of the Standards Department. The commitment of the Worker members to the work of the Conference Committee reflected the wish that the rights of workers be given priority and be served by, and not subjected to, economic policy.
- 63.** The Worker member of India stated that the Committee had met to discuss the implementation of international labour standards concerning the life of the workers of the world at a time when the laws were more often violated than implemented. Globalization had generated greater unemployment, poverty, hunger, insecurity, and the dismantling of social security systems, while a very high rate of profit was being earned by capital. Outsourcing was causing havoc. Countries that outsourced production or services did so to avoid the responsibility to continue employing employees at existing rates of pay and benefits, preferring cheap labour and materials of poorer countries, and following the objectives of the international financial institutions in favour of the globalization of the economy. In the same context, indigenous activities were also outsourced to smaller entrepreneurs to undertake work at very low prices in the informal economy, where no law was applicable. It was against such a background that the Committee of Experts and the Committee on the Application of Standards had to work. In this context, he regretted that the mandate of the Committee of Experts was restricted to the Conventions ratified by member States. As a result, countries both rich and poor, were excluded from the overview of the Committee if they had not ratified the relevant Conventions. Indeed, many countries were now considering whether they could denounce ratified Conventions to avoid the additional burden of meeting the obligations arising from ratification. For this purpose, the informalization of the formal sector had become the order of the day. In this way, workers were being evicted from legal protection in most countries. He expressed the hope that the Committee on the Application of Standards would find ways and means of ensuring that national laws were amended to protect every individual worker in establishments of all sizes. He added that, child labour could not be reduced if unemployment was not lowered, employment could not be guaranteed if the rationale for production was to maximize profit

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rather than satisfying the needs of the people. The relevance of ILO standards would ultimately be lost if capitalism, under the guise of globalization, was to continue.

- 64.** The Worker member of Luxembourg, while emphasizing that the report of the Committee of Experts was a remarkable document, said that he wished to refer to a topical issue on which the ILO had adopted a resolution two years earlier, namely migration. It was true that several Conventions had been adopted on the issue. Nevertheless, the number of countries that had ratified these Conventions was very small, and indeed insignificant. The problem that should be of concern to the Committee was not that of persons emigrating under legal conditions, or even that of political refugees or asylum seekers, but that of workers who, for reasons of economic or social distress, were obliged to emigrate in order to survive and feed their families. These persons were leaving their country, leaving their families and loved ones behind, to embark upon an adventure which demanded enormous sacrifices, in particular financial sacrifices. Without knowing what awaited them, these people faced tremendous risks and could be victims of traffickers. Many never reached their destination and perished, while others were picked up exhausted and turned back or returned to their country of origin. Those who, against all odds, reached their destination were in most cases exchanging the destitution in their country for a miserable existence on the margins of society in the so-called receiving country, which also had its deficiencies, inequalities, discrimination, unemployment and precarity. Furthermore, it must not be forgotten that the departure of these people led to the disintegration of the social fabric of the country of origin with all the consequences that that implied. At a time when the issue of migrant workers was taking on very special importance and affecting all the continents, the Conference Committee had to consider the possibility of reflecting on the problem. Although the report of the Committee of Experts referred to contacts, via the Office, with the United Nations on the subject of human rights and, in this context, to the International Convention on Protection of the Rights of Migrant Workers, it did not supply any other information. It would be to the advantage of the ILO to adopt or at least draw inspiration from Resolution 1437 (2005) of the Council of Europe, which called for international mobilization to increase economic and social development aid for the regions concerned by the exodus of populations. The fate of migrant workers deserved urgent care and careful attention. It was an issue of respect and human dignity.
- 65.** The Government member of Egypt thanked the Director of the Standards Department for her efforts leading to the adoption of the Maritime Labour Convention and indicated that her Government had submitted the Convention to the competent authority in accordance with article 19 of the Constitution. Concerning paragraphs 46 and 47 of the report of the Committee of Experts containing the list of the cases in which the Experts had been able to note with interest various measures taken by governments, she stated that Egypt was mentioned with regard to Convention No. 111. In this regard, it was important to emphasize that a woman in Egypt had for the first time acceded to the post of judge. The National Council of Women, established by Presidential Decree, had launched the “Working Woman Project” on the question of equality of opportunity in 32 ministries to ensure equality between women and men. She indicated that a tripartite committee had been established in her country to examine observations raised in the report of the Committee of Experts in relation to the fundamental Conventions. In this regard, the Committee of Experts would have to take into account the efforts made by developing countries for the amendment of their national legislation in relation to globalization and its grave social consequences. Finally, with regard to the strengthening of the supervisory system, she emphasized that the adoption of a country-based approach, would certainly generate support for the system and would guarantee the implementation of international labour standards in an appropriate manner.
- 66.** The Worker member of Pakistan reaffirmed the belief that the work of the Conference Committee was of great importance in securing progress in the ratification of Conventions

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and their implementation. Of all the cases covered in the report of the Committee of Experts, the Conference Committee would only be able to deal with around 25. However, the fact that cases were not discussed did not mean that they were ignored. He therefore appealed to all Governments to take into account the observations of the Committee of Experts so that they could bring their laws and regulations into conformity with ratified Conventions. He called upon all the countries of chief industrial importance to act as models by ratifying all of the fundamental Conventions. In particular, countries in Asia and the Pacific should ratify the fundamental Conventions. In his own country, which had ratified seven of the eight fundamental Conventions, consideration was being given to the ratification of Convention No. 138. He recalled the great difficulties that were currently being faced, with globalization and the rise of free trade leading to an increase in precarious jobs, including temporary, contract, informal and agricultural employment, as well as work in export processing zones and the exploitation of women workers and migrants. In a context of privatization and deregulation, it was increasingly important to give emphasis to a rights-based approach and to the objectives of decent work.

- 67.** The Government member of Norway, also speaking on behalf of the Government members of Denmark, Finland, Iceland and Sweden, thanked the Office for providing technical assistance to governments that had requested it. The Committee of Experts had noted cases of progress covering 55 instances in which measures had been taken in 41 countries in 2005. He indicated that such results clearly showed that technical assistance and cooperation could be very helpful, provided that the political will existed in the recipient country to implement labour standards. The promotion of fundamental Conventions and the ratification of other Conventions, combined with relevant technical cooperation, was the central strategy in this regard. The aim was to reduce poverty and improve labour conditions worldwide, while at the same time implementing the Millennium Development Goals and ILO's Decent Work Agenda. With reference to the statement by the IMEC group, he said that there should be a balance between cases of serious breaches of international labour standards and more technical problems, which should be clearly distinguished in the relevant observations and requests for information. While it was of great importance to focus attention on the fundamental Conventions, this should not detract from promoting other Conventions. Although much had been achieved, the overall aim was to make the supervisory mechanism as rational and effective as possible, as emphasized by the Nordic governments on many occasions. Finally, he welcomed the fact the United Nations human rights bodies referred to information provided by the ILO and recommended measures to follow up the comments of the Committee of Experts and other ILO supervisory bodies. He supported continued collaboration between the ILO and other international bodies to raise awareness of the relevance of international labour standards for the promotion of human rights, and sustainable economic and social development. His Government fully supported the efforts to expand the Office's capacity to deal with issues raised by the supervisory system.
- 68.** The Government member of Italy welcomed the progress made by the Committee of Experts, which had taken into account the discussions and suggestions made by the Conference Committee and had made significant changes in the structure and content of its report so as to increase its impact. He also appreciated the Reader's Note for the information concerning the criteria used by the Committee of Experts to identify cases of progress and cases requiring the insertion of footnotes. It was especially useful to mention the cases of progress, which served as examples for other governments as well as the social partners. Finally, with regard to the improvement in the ILO's standard-related activities of the ILO and the debates in the LILS Committee, his Government supported the campaign to ratify the new instrument to amend the Constitution, the new strategic orientation for standards and its four components. He congratulated the ILO for its success in terms of the ratification of the fundamental Conventions, as well as the Consolidated Maritime Labour Convention, which could serve as a model for the consolidation of Conventions in other

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sectors. He emphasized the importance of the technical assistance provided by the Standards Department, the specialists in the field and the Turin Centre, as well as the need to allocate sufficient resources for this purpose.

69. The Government member of Japan appreciated that the Committee of Experts had clarified in its report its criteria for, in particular, the insertion of “double footnotes”. He called for the number of double footnotes to be increased so that individual cases could be selected from them thereby enhancing transparency and impartiality, as double footnotes showed the seriousness of a violation observed by the Committee of Experts. He also called for all vacancies on the Committee of Experts to be filled as soon as possible so that it would be able to examine cases more judiciously. Given the importance of the role of the Committee of Experts, the allocation of the necessary budget should be considered to increase its capacity.
70. Referring to the composition of the Committee of Experts, the Government member of Cuba pointed out that: (1) developed countries represented 12 per cent of the membership of the ILO but that in the last 20 years they had made up 42 per cent of the membership of the Committee; (2) it appeared that some industrialized countries were permanent members; and (3) some of the Experts had already been on the Committee for 15 years. While the renewal of mandates was acceptable, as it was necessary for the Experts to acquire experience, it was also necessary to have limits. The objective was for all economic, juridical and social systems to be represented, since although the Experts were independent, it was normal for them to have different cultural values, which together with their knowledge on the subject matter informed their views and provided the basis for evaluating cases.

### ***Fulfilment of standards-related obligations***

71. On the subject of compliance with standards-related obligations by member States, the Worker members welcomed the slight improvement and expressed the hope that the trend would not be limited to a single year. They welcomed the fact that, following the 93rd Session of the Conference, the Office had sent targeted letters to 53 member States, the cases of which had been mentioned in the relevant paragraphs of the report of the Conference Committee. These letters drew the attention of governments to serious failings in relation to their reporting and other obligations. Three member States had provided substantive replies, namely Afghanistan, Guinea and the United Kingdom (Montserrat). The Office had responded to requests for technical assistance. It would be desirable for other member States to reply to the Office’s invitation and explain the difficulties encountered in complying with their obligations, as well as requesting technical assistance where appropriate.
72. The Worker members expressed their conviction that non-compliance with obligations by member States harmed the operation of the ILO’s supervisory system. In relation to the obligation to submit the instruments adopted by the Conference to the competent authorities, which constituted the preliminary stage towards the ratification and implementation of Conventions, it was a matter of concern that a high number of countries, between 77 and 120, had not submitted any of the instruments adopted between 2000 and 2004. It was to be deplored that the nine countries indicated in paragraph 69 of the General Report had not provided information concerning the submission of the instruments adopted by the Conference for at least seven years. In this respect, they referred to the adoption by the Governing Body of the revised Memorandum concerning the obligation to submit the instruments adopted by the Conference to the competent authorities. The Memorandum specified the aims and objectives of submission, which included informing the social partners and Parliamentary representatives of the legislative work carried out by the Conference. In the case of States which had ratified the Tripartite Consultation

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(International Labour Standards) Convention, 1976 (No. 144), proposals in relation to submission had to be the subject of tripartite consultations. The Worker members hoped that the Memorandum would be disseminated and used by those countries that had not ratified Convention No. 144, which numbered 61.

- 73.** With reference to the supervision and monitoring of instruments that had been ratified, the Worker members indicated that while, the previous year, they had noted with regret the fall in the number of reports provided by governments, this year the number of reports received had increased by 5 per cent. Of a total of 2,638 reports requested, 1,820 had been received, namely 69 per cent of the reports requested. However, the majority of these reports were received late, that is after the final date of 1 September. Indeed, by that date, only 26 per cent of reports had been received. A high number of countries had therefore sent their reports between the final date and the end of the Committee of Experts. Another concern was the provision of first reports. In total, 105 of the 200 first reports due had been received. These delays were regrettable as they put off the first examination of the application of the Convention in the countries concerned. This year, 36 countries had not sent first reports and 17 countries had not sent them for two or more years. The Office needed to adopt an individualized approach with these countries so as to identify the difficulties encountered in complying with their obligations. Furthermore, the reports of member States were often incomplete, which gave rise to further requests by the Committee of Experts, thereby further delaying supervision of the application of standards. The Worker members called on governments to supply their reports in time, take greater care over the preparation of their reports and provide the legislative texts, statistics and other documents that were required. The practice of delaying the supply of reports and providing incomplete reports had a direct effect on the work of workers' organizations in that it was often impossible for them to react to their government's reports in such a short time. Moreover, this practice prejudiced the work of both the Committee of Experts, which was under the obligation to postpone its examination of reports until the following year, and the Conference Committee. Hence, the Worker members proposed to review the reporting cycle.
- 74.** The Employer members welcomed the heightened recognition by the Committee of Experts of the importance and serious nature of the failure of governments to report, which was in line with the decision by the Conference Committee the previous year to no longer refer to these cases as "automatic cases". They also appreciated the additional effort made by the Office to obtain the missing reports, although the results had been limited. They continued to believe that a better understanding of the reasons for non-reporting needed to be set out in the report of the Committee of Experts. Better information on the circumstances of each country would be helpful, combined with an overall assessment of reasons for non-reporting. Clearly, different strategies needed to be tried, which might include help from member States which met their reporting obligations. Regular direct contacts with ILO standards specialists also appeared to be essential. Furthermore, the Conference Committee needed to adopt a fresh approach to cases of failure to supply reports, without which the regular supervisory process could not function.
- 75.** They reaffirmed that prolonged failure to report and to respond to requests for information from the Committee of Experts were as serious as fundamental failures to implement ratified Conventions. Cases of serious failure to report ranked in importance alongside the substantive cases which the Conference Committee placed in special paragraphs and paragraphs concerning continuing failure of application. As much energy should therefore be devoted to these cases as to cases of substance.
- 76.** The Worker member of France emphasized that it was important for governments to meet their obligations and send their reports or reply to the comments of the Committee of Experts within the established deadlines, so that the trade unions could respond if

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necessary. This assumed that national administrations, in particular those responsible for labour, had the material and human resources necessary to discharge their functions.

77. The Government member of Egypt indicated that her Government had submitted the Maritime Labour Convention to the competent authority in accordance with article 19 of the Constitution. In addition, Egypt had submitted to Parliament the Seafarers' Identity Documents Convention (Revised), 2003 (No. 185). However, very important financial resources would be necessary to ratify this Convention, which might not be within the reach of certain member States, especially developing countries. With regard to paragraph 39 of the report of the Committee of Experts, her Government was anxious to supply to the Experts all the reports requested containing available information, including statistics on labour inspection in accordance with the Labour Inspection Convention, 1947 (No. 81). On the implementation of the provisions of Convention No. 144, her Government had supplied the Standards Department, after consulting the social partners, all the reports concerning the ratified and unratified Conventions in accordance with articles 19 and 22 of the ILO Constitution. Her Government had responded in time to all the observations and direct requests made by the Committee of Experts. In this context, her Government wished to intensify the measures for training of officials of the Ministry of Labour responsible for preparing the reports.
78. With reference to the figures provided in the report of the Committee of Experts concerning compliance with reporting obligations, the Worker member of Pakistan emphasized the need for training and capacity building for government officials and the social partners. The promotional activities undertaken by the ILO on international labour standards were to be welcomed with a view to improving national capacity to apply labour law. Governments should engage more fully in dialogue and cooperation with the social partners so that they could fulfil their obligations in relation to international labour standards more effectively.
79. The Government member of Italy indicated that his Government had met all its obligations relating to reporting and submission and thanked the Committee of Experts and the Office for the measures taken to follow up the debates in the Conference Committee on the cases of serious failure to comply with the obligation to supply reports. He noted the serious problems that existed, which were the result of the increase in the workload of governments, the Office and the Committee of Experts, and deemed it appropriate to review the present system of reporting.

### ***The reply of the Chairperson of the Committee of Experts***

80. The Chairperson of the Committee of Experts thanked the Committee for the excellent debate, which she would report back to her Committee. The speaker stated that the Committee of Experts would re-examine the possibility of including highlights and trends in its General Report. She recalled that when these first appeared, the Workers had welcomed them while the Employers had found them inappropriate. Likewise, the Employers had found the General Report too long, while the Workers had found it too short. It would be difficult to please all parties, but the Committee would discuss these matters at its next session.
81. She acknowledged that the discussion of the Committee of Experts' working methods had been deliberately vague, especially as regarded a country-based approach, but she underlined that these efforts were in their beginning phases and would be described in greater detail as they developed. She noted that while the number of double footnotes had been higher than in recent years, they were lower than back in the 1990s, when, for example, there had been 17 double footnotes in 1997. The intention of the footnotes, she



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stressed, was not to pre-empt the decision of the Conference Committee as to the list of cases. If the number of footnotes was considered a problem, this could be discussed between the Committees. Likewise, problems in the wording of the Reader's Note could also be discussed. As for the methods of work of the Committee, she acknowledged the conclusion of the tripartite agreement in Colombia, noting that this was the kind of outcome the Committee of Experts hoped for.

### ***The reply of the representative of the Secretary-General***

- 82.** The representative of the Secretary-General expressed her sincere thanks to the members of the Committee for their constructive contributions to the debate the quality of which had been of the highest level. She noted that a number of concrete suggestions had been made concerning: (1) the working methods of this Committee; (2) the report of the Committee of Experts to which the Chairperson of that Committee had responded; (3) the composition of the Committee of Experts; and (4) technical assistance, as well as other matters. However, before dealing with these concrete suggestions, she referred to the historic agreement reached in the framework of this Conference Committee between the Government, Employers and Workers of Colombia. As the Employer and Worker Vice-Chairpersons of this Committee had stated, it demonstrated in a concrete way one way in which a process and a mechanism could be put into place to ensure greater compliance with obligations under ratified ILO Conventions and the important role of social dialogue.
- 83.** Concerning the working methods of the Committee, the speaker pointed out that the Office had held consultations with Governments during the Governing Body specifically to see how the long-outstanding concern as to the early publication of the list of cases could be addressed. The Office then consulted the Employer and Worker spokespersons designate of this Committee, as well as with the secretariats of the Employers' and Workers' groups of the Governing Body. The representative of the Secretary-General stated that in agreeing to the publication of an early and preliminary list, the Worker spokesperson designate informed her in writing of the concern he had as regards any potential acts of interference that could result from such an early publication. The Office considered it opportune to draw member States' attention in general to this preoccupation, which was in no way directed at any particular government. In sending out the preliminary list, the Office had made a typographical error and should have referred instead to a "Non-exhaustive list of possible cases or simply a long list". She wished to apologize for any inconvenience this designation in the annex to the letter may have caused. She noted, however, that there had been overwhelming support for this early publication as it had given governments more time to prepare themselves. It was quite clear to her that the tripartite consultations had been successful in finding a way forward on this issue.
- 84.** As regards the other issues raised concerning the functioning of the Conference Committee, as she had indicated to the Government group of the Governing Body in March 2006, the next stage of consultations could begin to address some of the other issues. She also had had consultations with the spokespersons of the Employers' and Workers' groups of this Committee and wished to propose that advantage be taken of the presence of those most interested to have an informal tripartite consultation in the last week of the Conference. For this purpose, in agreement with the Officers of the Committee, she wished to propose to hold such a consultation based on a composition of eight Governments (with equal regional representation per region), eight Employer representatives and eight Worker representatives on Wednesday, 14 June at a time and place to be communicated in due course. The Office would prepare a short document as a basis for this consultation. The regional coordinators would be contacted in this regard as to the nominations from the Government group.

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- 85.** As regards the Committee of Experts, a question had been raised concerning the composition and term of office of the members. She wished to inform the Committee that in November 2005, the Governing Body had filled four new vacancies and that all the four new experts came from developing countries. Continued efforts were being made to ensure that the Committee of Experts was composed of persons of the highest technical competence and independent standing from all regions of the world with first-hand experience of different legal, economic and social systems. As to the term of office of the members of the Committee of Experts, since the previous year, a maximum term of 15 years had been implemented with a view to ensuring both continuity in expertise and renewal. As to the number of experts, this issue was really one for the Governing Body and would need to be raised in that context. Concerning the comments made on the information from the Committee of Experts that it was considering the possibility to include a country-based approach when carrying out the supervisory function, the Office was currently examining the possible modalities of integrating such an approach, as well as its advantages and disadvantages. It was also proposed that this issue be the subject of tripartite consultations.
- 86.** As to the question raised concerning the standards specialist position for the Arab States, she stated that the Office was doing all in its power to fill existing vacancies of standards specialists in the field. This applied to the ILO offices in Beirut, Lima, Port-of-Spain and Yaoundé. All of these vacancies had been open to both internal and external candidates. They required a mix of sound technical knowledge of international labour standards, the supervisory procedures and languages. The result for Beirut was already known and the others were in their final stage of completion. As to the request concerning Arabic translations of report forms and other standards-related documentation, here the Office followed the policy of making all documents available in one of the three working languages of the Organization: English, French and Spanish. The Office had however sought arrangements between the Standards Department and the Office for Arab States to see how it could support the translation of the comments of the supervisory system into Arabic to assist the member States concerned. Resources were however very limited for this activity.
- 87.** A number of interventions referred to the importance of the role of technical assistance and cooperation not only as regards assisting countries experiencing difficulties with reporting obligations but also with implementation and compliance with international labour standards. The Office would continue to pursue an individualized approach to the maximum extent possible, in particular as regards the failure to submit first reports. The country profiles as suggested by the Employers could indeed be a useful tool in assisting the determination of needs and priorities. The Office would continue to provide support to the extent possible within the limit of its resources and would, in this regard, encourage international cooperation among countries.
- 88.** In conclusion, she underlined that the Office wished to remain attentive to the concerns expressed and to be responsive in seeking solutions to them. The Office was one of the partners of the Conference Committee. It would be guided by the Committee's recommendations with a view to supporting and complementing as appropriate the Committee's own action so that international labour standards were properly implemented, and supported development objectives.

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

***Labour Inspection Convention, 1947 (No. 81); Protocol of 1995 to the Labour Inspection Convention, 1947; Labour Inspection Recommendation, 1947 (No. 81); Labour Inspection (Mining and Transport) Recommendation, 1947 (No. 82); Labour Inspection (Agriculture) Convention, 1969 (No. 129); and Labour Inspection (Agriculture) Recommendation, 1969 (No. 133)***

89. The Committee devoted part of its general discussion to the examination of the General Survey carried out by the Committee of Experts on the application of the Labour Inspection Convention, 1947 (No. 81), the Protocol of 1995 to the Labour Inspection Convention, 1947, the Labour Inspection Recommendation, 1947 (No. 81), the Labour Inspection (Mining and Transport) Recommendation, 1947 (No. 82), the Labour Inspection (Agriculture) Convention, 1969 (No. 129), and the Labour Inspection (Agriculture) Recommendation, 1969 (No. 133). In accordance with the usual practice, this survey took into account information communicated by governments under article 19 of the Constitution, as well as the information communicated by member States which have ratified the instruments in their reports submitted under articles 22 and 35 of the Constitution and the comments received from employers' and workers' organizations to which the government reports were communicated in accordance with article 23, paragraph 2, of the ILO Constitution.

***Opening remarks***

90. The Employer members stated that from the Treaty of Versailles to the present day, labour inspection had been a priority issue for the ILO and that the Governing Body had recognized the significance of the subject by asking the Experts to address the issue in five other General Surveys since 1951 (1951, 1957, 1966, 1969, 1985). The Employer members indicated that if Conventions and Recommendations articulated the spirit, philosophy and principles of the ILO, labour inspection was the lifeblood that sustained ILO instruments once they were incorporated in law and regulation and ensured that ratified instruments were implemented in practice. The Employer members considered that a functioning labour inspection scheme was part of an effective labour administration system and a basic condition for good governance in the world of work. An effective labour inspection promoted a stable business climate, which was an essential element for investment, economic growth and job creation. Investors today were not attracted by weak enforcement, and the reputation and other risks of doing business in weak governance zones were too high and businesses were instead attracted to investment environments where sound laws were implemented and effectively enforced.

91. The Employer members expressed their concern at the low response rate of 55 per cent to the General Survey. The Committee of Experts had repeatedly mentioned throughout the General Survey that the information provided on the various aspects of labour inspection was vague, incomplete, or not sufficient to enable them to make a meaningful assessment. The Employer members considered that a reliable and representative study was difficult to provide without sufficient facts and data on which to draw reasonable conclusions. The Employer members further considered this to be a serious issue that warranted further consideration, since otherwise the credibility of the survey process could be placed at risk as well as the credibility of the Experts. There were important lessons to be drawn from the

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ratification rates of the labour inspection instruments. First, the Employer members considered it significant to note that Convention No. 81 concerning commerce and industry had the highest number of ratifications (135) and that it was a flexible instrument. It contained a number of possible exclusions in particular, the mining and transport sectors. Convention No. 129 had received about 30 per cent of the ratifications (43) of Convention No. 81 and contained fewer possibilities for exclusions.

- 92.** Regarding Chapter I of the General Survey, the Employer members indicated that the Protocol of 1995 concerning non-commercial services had been the least successful in terms of ratification with just ten ratifications and that although it was a flexible protocol, it was also vague. It seemed to be difficult for governments to identify the activities, enterprises and services covered by the instruments and that this ratification note suggested that while flexibility was important in promoting ratification, flexibility alone was not enough. Specific technical guidance was needed to ensure that member States understood how these instruments could be applied. Historically, protocols were not a type of labour standard that resulted in a substantial number of ratifications.
- 93.** In relation to Chapter II, the Committee of Experts had expressed its views on the mandate of labour inspection and noted that while Convention No. 81 was very clear in that it covered the “conditions of work and the protection of workers while engaged in their work”, Convention No. 129 went beyond this by providing for the possibility to extend coverage to “conditions of life of [agricultural] workers and their families”. The Employer members noted that the Experts had suggested that Convention No. 81 should be read in the “broader manner in the context of the subsequent Conventions and Recommendations”, namely Convention No. 129 (paragraph 46), and questioned the basis for the extended interpretation of Convention No. 81 by the Committee of Experts. They disagreed that the mandate of labour inspection could be determined in this manner under the law of treaties. The Employer members considered that in understanding the mandate of labour inspection, it was important to also be guided by the provisions of both Conventions regarding the limitations of the scope of work of labour inspectors as well as by the relevant legislative history. Both contained provisions stipulating that labour inspectors should not be overburdened with additional functions that interfered with the effective discharge of their primary duties.
- 94.** The Employer members believed that the General Survey correctly acknowledged that the primary duties of labour inspectors were complex and required time, resources, training and considerable freedom of action and movement. However, one of the clear conclusions of the survey was that the resources available for labour inspection were scarce. It was therefore important to carefully select priority areas for action.
- 95.** In Chapter III, on the preventive function of labour inspectors, emphasis should be placed on the provision of technical information and advice to employers and workers. Moreover, although labour inspection had an important preventive role as regards the deterrent effect of suspension of operations and penalties, building the capacity of the social partners to do their part in promoting respect for laws in the workplace was more important in terms of prevention in the long run.
- 96.** In Chapter IV, the Committee of Experts had pointed to the different categories of systems and had stated that these demonstrated the diverse structures that were possible under the labour inspection instruments, which further demonstrated the flexibility of the ILO’s labour inspection Conventions. In this context, the General Survey highlighted that it was useful to ensure supervision and control by a central authority, as well as internal and external cooperation. As regards the latter, the Employer members pointed out the need for trust-based cooperation by the labour inspectorate with the social partners.

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- 97.** Regarding Chapter V, the Employer members agreed with the Committee of Experts' observations that the effectiveness of labour inspection largely depended on the commitment of the public authorities to the effective implementation of measures to attract and retain a sufficient number of qualified and motivated staff. The Conventions provided guidance in the way of criteria for determining the number of inspectors required and the measures needed to recruit and retain staff but the recruitment of qualified staff had been made increasingly challenging over time. The technical advisers to the labour inspection staff now required background knowledge on an increasingly diverse array of facts, particularly in industrialized countries, and individual inspection was increasingly specialized across a wide range of fields, including medicine, ergonomics and psychology.
- 98.** The Employer members stated that labour inspectors must also be chosen on the basis of their ability to carry out their duties with complete independence, discretion and impartiality and noted the information provided on the preparation of an ethical guide in France. The Employer members saw the promotion of ethical standards, including the prohibition of any direct or indirect interest, professional secrecy and sanctions for violations, as of utmost importance and an area for the overall training of labour inspectors, in which the ILO could play a role in raising awareness, developing tools and sharing best practices to assist member States.
- 99.** With regard to the role of women in labour inspection, the Employer members pointed out that although they supported the increased participation of women in labour inspection, they disagreed with the idea put forward by the Committee of Experts that the Conventions should be interpreted as requiring men and women to have "special duties". Such a suggestion only reinforced gender stereotypes.
- 100.** As regards Chapter VI, the Employer members stressed the importance of ensuring that labour inspection services were equipped with the necessary resources to ensure their proper functioning. Simply reiterating the need for adequate resources would not improve the situation especially when resources were lacking as in developing countries. Realistic approaches were needed, including: defining immediate priorities that could be covered by existing resources; identifying innovative ways to make the most effective use of the existing resources, such as through the use of technology, and developing strategies for the gradual extension of labour inspection. The fact that in some countries income from fines imposed by labour inspectors was entirely or partly used to fund the labour administration system was of concern and could lead to real or perceived conflict of interests. The Employer members believed that at least in theory, labour inspectors could be tempted to impose more and higher fines than were justified merely to generate sufficient resources to pay their own salaries and was no better than allowing labour inspectors to accept direct assistance from employers to cover transport or other costs. The Employer members were convinced that both might prejudice the impartiality and authority of labour inspectors.
- 101.** The Employer members agreed with the principle in Conventions Nos. 81 and 129 that workplaces should be inspected as often and as thoroughly as possible. However, since such visits inevitably interfered with production of goods and services, they should not take place more often than necessary and site visits must also be balanced and combined with a number of other measures. As regards prosecution and penalties for violation of legislation, the Employer members agreed with the cautious approach to prosecution and penalties contained in the Convention. It was important that labour inspectors be provided with the discretion to give warning and advice instead of rushing to institute or recommend proceedings and that the penalties imposed should be adequate and proportional to the offence committed. It was unfortunate that no information was provided in the survey about the relation of the system of labour inspection and judicial process since a central principle of the ILO Conventions was the possibility of judicial review.

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**102.** As regards Chapter IX, the instruments provided for the preparation of two types of reports on the work of the labour inspectorate: periodical reports to be submitted by labour inspectors or local inspection offices to the central inspection authority; and an annual general report published by the central inspection authority on the work of the inspection services under its control. These reports were important sources of information in identifying possible areas for improvements to the functioning of the labour inspectorate or to the application of laws and regulations. The reports should reflect any shortcomings and challenges in the labour inspection system, but should also include good practices and innovative approaches that could be replicated. The Employer members pointed out that judging from the number of annual inspection reports received by the ILO and their content, it was evident that member States encountered challenges in this regard, the most frequently cited by governments being lack of sufficient resources. The ILO was well placed to develop tools and methods to help member States make progress in this field.

**103.** Ratification prospects for the labour inspection instruments were not overwhelming since Convention No. 81, although broadly ratified, seemed to have reached the limits of its ratification potential and very few countries had expressed their intention to ratify Convention No. 129 and the Protocol. Many countries reported obstacles such as the lack of flexibility (a number of developed countries) or a lack of resources or capacities in their countries (developing countries). Although a ratification campaign might be a useful first step, ratification alone, as was clearly reflected in the General Survey, was insufficient. The ILO must play an active role in addressing the many challenges in giving effect to the Conventions once they were ratified. In view of the steady overall improvement in workplaces globally, particularly with respect to the health and safety of workers, the Employer members disagreed with the Committee of Experts' observation in paragraph 365 that there was a need for increased protection for workers and stated that in fact what was needed was a robust and credible national labour inspection to assure implementation of all ILO standards.

**104.** The Employer members stated that although obvious questions of resources and the priority nature of labour inspection should be reflected in the level of resources allocated at the national level, ILO appeals and recommendations to member States on this issue were insufficient. The ILO should provide concrete and specific assistance if any progress was to be made in this area. The Employer members also indicated the following list of suggestions for future action by the ILO in this important area:

- Providing technical advice. Although the Committee of Experts occasionally provided clarifications on questions regarding the meaning and application of the instruments, it did not do so exhaustively. The ILO had a role to play in providing tailor-made responses and advice. As a starting point, it would be useful for the Office to follow up on the very evident misunderstandings some countries had over what the Conventions required, and respond to the requests for clarifications.
- Sharing good practices. The Committee of Experts made reference in paragraph 15 to attempts to highlight the good practices of member States in the application of the labour inspection instruments, but more could and should be done in this respect.
- Sharing tools. The Employer members pointed out that the report drew attention to the guide on ethical behaviour prepared in France and stated that the ILO could play an important role as the conduit for sharing specific tools between member States.
- Fostering networks. The ILO should actively link up and facilitate networking between member States. A member State that had overcome particular challenges in the area of labour inspection might help another member State to overcome similar challenges.

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- Identifying external resources. The General Survey noted that lack of resources was often responsible for the shortcomings in labour inspections systems. The ILO clearly had a role to play in helping to identify available resources by, for example, connecting donors to beneficiaries. The Employer members indicated that although labour inspection was an ongoing government responsibility and had to be funded out of the government budget, donors could help member States to address structural challenges that would facilitate the efficient functioning of their labour inspection system.
  - Promoting awareness as to the economic impact of labour inspection. The ILO had a role to play in educating member States about the economic losses and lost productivity that resulted from poor working conditions. Such information would create an incentive to invest in the labour inspection system.
  - Providing guidance and tools. The Committee of Experts had identified a number of areas in which member States encountered challenges in giving effect to instruments and the ILO was well placed to provide specific guidance and tools in these areas, which included but were not limited to: priority setting; training, reporting; sanctions and penalties; the informal economy; and integration of the labour inspectorate with other national authorities. The Employer members pointed out that the ILO should move from an approach of pure supervision towards one that was rooted in the provision of practical advice and appropriate tools. Such a shift in focus would build the capacity of the social partners to implement and monitor the implementation of ratified ILO Conventions, lightening the burden of ILO supervision and resulting in concrete changes.

**105.** In conclusion, the Employer members stated that the General Survey showed the challenges that many countries faced in ratifying ILO Conventions and their effective implementation and enforcement through a system of labour inspection. The Employer members further stated that unfortunately the General Survey confirmed that in too many instances, ratifications led to legal developments but not practical implementation. No ILO Member should be ratifying particular ILO standards without understanding the need for the Convention's implementation in fact, through a viable system of labour inspection and enforcement regardless of whether they had ratified the instruments that were the subject of the survey.

**106.** The Worker members noted that this sixth General Survey of ILO instruments related to labour inspection highlighted two major issues: on the one hand, it set the debate within the context of the economic and social changes that had taken place over the last two decades and had been partially characterized by the explosion of non-commercial services, and on the other hand, to identify obstacles to the ratification of the Labour Inspection (Agriculture) Convention, 1969 (No. 129), as this sector occupied large numbers of workers around the world.

**107.** The obligation for each State to set up a labour inspection system had been noted at the very foundation of the ILO, as it featured in the Treaty of Versailles. An important evolution in the instruments pertaining to labour inspection had been the endorsement of the mission of the labour inspectorate as provider of information and advice, which was a complementary mission to that of control. This aspect of the institution was particularly pertinent to countries in economic transition.

**108.** Placing the discussion on labour inspection in the current context led to highlighting several evolving issues:

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- economic change linked to globalization and the increased mobility of the workforce as well as consumers’ mobility, was a factor which changed the playing field regarding conditions of work in certain sectors, such as tourism in particular;
  - social change, with the progressive fragmentation of a labour market demanding greater flexibility from workers in an environment of deregulation, tantamount to precarious conditions and the weakening of workers, particularly from a psychological point of view;
  - technical change, with the constant appearance of new activities and substances even before scientific knowledge could provide the know-how necessary to safeguard against the risks;
  - technological change, mainly the overshadowing of the “time” and “place” factors at work through the introduction of communications technologies, a phenomenon which had completely changed the situation with regard to the transparency of the available information on the social condition of workers and employers.

**109.** These developments naturally involved a risk for workers’ rights and at the same time, required ever wider knowledge on the part of labour inspectors. The positive impact of the work of inspectors on employees’ conditions of work, the promotion of their rights but also sustainable economic growth was undeniable. The need to guarantee an impartial labour inspectorate endowed with appropriate human and technical resources should be constantly recalled and emphasized.

**110.** Thus, at this session, the Conference debated the issue of the effectiveness of international labour standards from two viewpoints: legal institutions providing protection to the greatest number of workers, and the actions specifically taken by the labour inspection to this end. Convention No. 81, the most widely ratified instrument in this field, exerted its influence mainly in the context of a salaried employment relationship. The possibilities of restriction of its field of application could however move a large number of workers away from the protection of inspection services, especially workers occupied in small production units or the population working in the informal sector. The 1995 Protocol, which aimed at extending the field of application of Convention No. 81 to non-commercial services, had received only some ten ratifications despite the flexibility of its provisions and surely because of its imprecise nature as to the type of activities to which it applied. Convention No. 129 on labour inspection in agriculture, which had received only 43 ratifications from States already party to Convention No. 81, seemed to be regaining interest among Central and Eastern European countries. Recommendation No. 81 contained guidance for the implementation of Convention No. 81 and Recommendation No. 82 aimed at providing a solution to the problem raised by the possibility of excluding mining and transport enterprises from the field of competence of the labour inspectorate. Recommendation No. 133, relative to labour inspection in agriculture, should also be mentioned. This group of instruments established the three principal functions of labour inspection, namely, to ensure the application of legal provisions relative to conditions of work and the protection of workers in the exercise of their profession; to inform and advise employers and workers on the most effective methods for implementing the legal provisions; and finally, to bring to the attention of the competent authority the defects or abuses which were not specifically covered by the legislation.

**111.** The evolution of the concerns prevalent in the world of work had led, especially in the industrialized countries, to envisage a reorientation of the mission of labour inspection in order to include questions relative to equality of treatment and non-discrimination, as well as recently identified professional risks such as stress, mobbing or the effects of the



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HIV/AIDS pandemic. In some countries, the authority of the labour inspectorate extended even to training, collective dismissals and management of unemployment benefits.

- 112.** The increasingly fashionable notion of “self-evaluation” of occupational risks, introduced by the concept of “corporate social responsibility”, pointed towards the abandonment of all external and binding control and thereby, the idea of sanctions, and seemed to undermine the principle of the inviolability of the classical regulatory framework of a labour inspection function based on collaboration with the social partners. Without rejecting the practices of auto-evaluation of risks and social audit initiatives based on voluntarism, since these were well-intentioned, they could contribute to the promotion of a law-abiding mentality, the Worker members nevertheless considered that it was always for the State to guarantee the application of the law even if the enterprises could, in addition, adopt codes of conduct based on the fundamental principles of the ILO. From the point of view of the Worker members, corporate social responsibility should be implemented in the framework of provisions based on evaluation criteria and follow-up of actions and should involve workers’ representatives.
- 113.** In many countries, labour inspection was also entrusted with controlling the application of legal provisions in areas that fell outside the scope of the international instruments on labour inspection, in particular, illegal employment, certain aspects of child labour and questions relative to the exercise of freedom of association or the surveillance of safety standards for toys. It often happened that the labour inspectorate was entrusted with issuing work permits or managing the procedure for the resolution of labour disputes. Such an extension of the prerogatives of the labour inspectorate was not without risks of interference and incompatibility vis-à-vis the requirements of authority and impartiality linked to the functions identified by the instruments examined by the Committee of Experts. The function of conciliation or mediation necessarily touched upon questions other than the non-respect of regulations, and as a result, the labour inspectorate risked losing its credibility and a lot of time. Moreover, although the labour inspectorate could be called upon to provide technical assistance to the formalization of collective agreements, it should not be used for carrying out inspection visits to the representative workers’ and employers’ organizations. Concerning child labour, a distinction should be made between the responsibilities of the labour inspection and those of the police with regard to the follow-up to conditions of health, safety and morality.
- 114.** The Worker members insisted on the need to centre the labour inspection’s activities upon the legislation relative to conditions of work, both through control and the function of advice and information towards the social partners, and on efforts aiming to improve such legislation. A dispersion of labour inspection functions, which would have as an effect an increase in its responsibilities, risked to compromise its capacity of action with regard to its true mission which was that of the defence of the rights of workers. The labour inspectors’ mission was not to fill in the deficiencies of governments in the area of public services.
- 115.** The action of the labour inspection could only be effective to the extent that workers were informed of their rights and employers conscious of their responsibilities. Recommendation No. 133 demonstrated a certain pragmatism in this respect, by placing emphasis on the tools of workers’ training and various forms of collaboration with workers’ organizations. The Worker members drew the attention of the Committee to the opportunities offered by new information and communication technologies for the development, through labour inspection, of information and technical advice services to the social partners, despite the imbalance between the power of certain enterprises and the limited means of the labour inspectors. The Internet and other media were tools adapted to the continuous evolution of society for the dissemination of information in the area of hours of work, protection of wages, equality of treatment between men and women, eradication of discrimination, elimination of precariousness and violence at work.

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- 116.** With regard to safety and health at work, the Worker members cited the provision of Recommendation No. 81 relative to the preventive control mission of labour inspectors in new establishments, new activities and new substances and were pleased to note that labour inspectors were given such a mission in most countries, although Convention No. 81 had not established a legally binding obligation on this point. The Worker members were of the view that this demonstrated the evolution in mentalities and the awareness of the common benefits of a preventive approach in this area. The Worker members also referred to the power to issue injunctions which might have a time limit or immediate executory force as provided for in the Conventions on labour inspection. These allowed labour inspectors to protect workers against occupational risks due to a flaw in the installations, constructions or work methods. The relevant provisions aimed at the elimination of risks rather than their repression.
- 117.** The Worker members agreed with the Committee of Experts that the primary role of the labour inspectorate was not to impose penal sanctions but rather to detect and eliminate risks well in advance. The problems raised by the absence of the means necessary to exercise effective action on this issue had often been noted. Moreover, given the unknown factors inherent in technological evolution, the labour inspectorate was vested with a much larger mission to protect society. The social and human cost of occupational accidents and diseases remained disproportionate to the means which should have been deployed to avoid them. The Worker members considered that the Code of Practice on Recording and Notification of Occupational Accidents and Diseases published by the ILO in 1996 should be the object of a new promotional campaign followed by an evaluation of its impact.
- 118.** The effectiveness of labour inspection essentially depended on its integration in the economic and social context. Three factors were decisive in this respect: the placement of the labour inspection under the supervision and control of a central authority; effective cooperation with other institutions, such as social security, immigration authorities or social study institutions; and collaboration with the social partners at the national and enterprise levels. In the industrialized countries, it was generally accepted that rigorous control of conditions of work was a factor of social cohesion and economic progress. The Worker members took note of the reservations expressed by the Committee of Experts in paragraph 172 with regard to the persistent inadequacy of cooperation mechanisms helpful to the labour inspectorate in its activities, due to the separation of different authorities, the lack of integration of objectives, the isolation in which the labour inspectorate often operated and finally, the lack of collaboration between the various institutions and the social partners. The Worker members were convinced that effective cooperation between the institutions and collaboration with the social partners were the best means to guarantee that the inspection services fulfilled their essential mission and thereby preserved a balance between the social and economic concerns.
- 119.** The effectiveness of the labour inspection depended largely on the efforts made by the public authority to attract to this function a sufficient number of qualified and motivated agents. The function of labour inspectors was very demanding, since it required technical competence but also psychological abilities and human skills. The profession should be protected by a statute allowing it to exercise its functions in a sustainable manner, away from any undue influence. Stability of employment, independence, remuneration guaranteeing commitment and incorruptibility, career perspectives and finally, security of the person should also be guaranteed. The exercise of the functions of labour inspectors required a particularly diverse set of knowledge and consequently, a solid education and continuous training in order to remain in touch with the evolution of technologies and work methods. Few countries communicated information on the training of labour inspectors and the level of their qualifications. This certainly represented a field of action for the ILO. It seemed that the problem of the status of the labour inspectorate, its independence and the conditions of exercise of its functions, was most acute in developing

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countries. One could observe that the profession was often abandoned by inspectors who finally opted for a career in the private sector. The issue of remuneration and career perspectives thus raised structural problems in these countries and it would be desirable that the international financial institutions took the share of responsibility which pertained to them in this field. In many countries the means allocated to labour inspection were insufficient, reducing the action of this institution to an insignificant level. This phenomenon tended to be no longer limited to developing countries. The Worker members recalled therefore that it was of crucial importance that all countries recognized the pre-eminent role that labour inspection played for the health of the economy in its entirety.

### ***Diversity of labour inspection systems and integrated approach***

- 120.** The Government member of Sweden said he appreciated the very thorough study on labour inspection, which clearly showed that labour inspection could be organized in different manners and still succeed in achieving the principal objectives defined by the Conventions. The Government member of Japan said that the objective of labour inspection in Japan was to guarantee and improve working conditions and the safety and health of workers through a centralized inspection system and fair and impartial labour inspections, in accordance with the spirit of Article 4 of Convention No. 81. Labour inspection had to remain under the competence of the Government. The Government member of Greece supported this point of view in his description of the various stages in the establishment of the system of labour inspection in his country and recognition that the decentralization of this function to the territorial administrations in 1994 had been a mistake due to the lack of coordination between the various local inspectorates and the lack of financial resources provided. As a result of pressure from several institutions, labour inspection was returned to a centralized structure under the authority of the Ministry of Employment and a Labour Inspection Office (SEPE) was created which operated as an independent body under the auspices of the Ministry. The speaker explained that the placement of labour inspection under the supervision of a central authority was intended to improve the quality of the inspections carried out and reports supplied. The function of the Tripartite Council for Social Inspection was to advise the SEPE on the functioning and formulation of annual reports by the labour inspection services as well as staff training, and to propose the adoption of new standards-related texts to the Minister of Employment.
- 121.** The Government member of Switzerland said that in his country labour inspection fell under the competence of the cantons which, through inspections carried out in enterprises, had to supervise labour legislation as well as legislation respecting health and safety-related accident insurance in the workplace. This legal dualism had been optimized at the beginning of the new millennium to avoid duplication. The federal labour inspectorate advised and informed the employers' and workers' organizations on the application of the law as well as the promotion of health and safety. Furthermore, the organization of inspections in agriculture was delegated to a body specifically competent in accident prevention in the agricultural sector. Certain specialized bodies at the federal level were responsible for establishing instructions, recommendations and provision of information for the agricultural sector. Following the ratification of the Minimum Age Convention, 1973 (No. 138), and the Worst Forms of Child Labour Convention, 1999 (No. 182), the inspectors responsible for the prevention of occupational accidents in agriculture were also responsible for supervising the application of legislation respecting the minimum age for admission to employment in this sector and received training for this purpose. With regard to chemical compounds, although it was not the competent authority in this field, labour inspection played an active role by informing the competent authorities as soon as they observed a potential health risk for workers.

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**122.** The Government member of the United Kingdom expressed his Government's support for an integrated approach to labour inspection, although this was not suitable in areas where there were special risks or activities. Recalling that labour inspection was only one of many enforcement regimes that employers had to comply with, the speaker referred to the restructuring/review of the institution of labour inspection that was under way in his country. To allow for a more integrated approach, 31 national regulators were being reduced down to seven thematic bodies, the Health and Safety Executive being the central authority. The Government member of Morocco indicated that in his country, labour inspection covered various sectors of the economy, including industry, agriculture, services as well as traditional craft work. The Government member of Cuba described a similar system and specified that in his country, all enterprises, including private, mixed capital and agricultural were subject to labour inspection; the same applied to self-employment.

### ***Tripartite collaboration and inter-institutional cooperation***

**123.** The Government member of Italy indicated that in his country, the system of labour inspection had undergone a reform in 2004 and that all information on the subject would be provided in the reports on the application of Conventions Nos. 81 and 129. Relationships were established between various bodies entrusted with control functions in the areas of work and social legislation. A central coordination committee was created, presided over by the Minister of Labour and consisting of all competent organizations as well as representatives of the social partners. A general labour inspection directorate within the Ministry of Labour was responsible for coordinating the activities of these bodies, including the social security services.

**124.** The Government member of the Dominican Republic mentioned the existence of a specialized information service on labour inspection, set up by tripartite consultative councils on the basis of social dialogue. Moreover, with regard to occupational health and safety, a safety awareness campaign was launched with particular emphasis on the construction sector. Some 1,100 committees on occupational safety and hygiene were set up as a result of this campaign and all this with the support of the SIECA/BID project and the ILO subregional office in San José. The speaker also agreed with the opinion expressed by the Committee of Experts that cooperation with the judicial bodies was vital for the organization of a good inspection system. Joint workshops had been organized with the Ministry of Justice on the inspection and its impact on the judicial system. The Worker member of the United Kingdom emphasized the need for comprehensive coverage, recalling that usually, the least covered were found where female labour was predominant. This led to a situation where women clearly enjoyed less protection than men. He recalled that the conclusions of the International Conference on Labour Inspection, held in 2004 in Luxembourg, as well as those of the ILO Tripartite Meeting of Experts on Labour Inspection and Child Labour of 1999, underlined the need for a multidisciplinary approach to labour inspection and an efficient cooperation between the different agencies. The Government member of Belgium stated that a global vision for decent work presupposed that labour inspection covered all occupational risks, including those on which awareness was raised only recently, such as various types of stress and harassment. Labour inspectorates should develop and implement new skills in the framework of cooperation with other bodies that dealt with workers' rights. The Government member of Mexico stated that since 1992, the Federal Act on Industrial Measurement and Normalization, together with its implementing Regulation, the Federal Regulation on Occupational Safety and Hygiene and the General Regulation on Inspection and the Imposition of Sanctions in the Event of Violation of the Labour Legislation, provided that the results of duly authorized verification investigations and inspection laboratories were to be accepted as evidence. The Government member of Argentina noted that the provincial authorities

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responsible for the inspection of conditions of work and the detection of child labour were brought under the Federal Labour Council.

### ***Diversity of working relations, economic sectors and categories of employees covered***

- 125.** The Government member of Greece underlined the continued importance and relevance of ILO instruments on labour inspection in promoting the Decent Work Agenda and in confronting contemporary challenges such as the appearance of new atypical forms of work and migration flows. The Government member of Japan recalled the importance of labour inspection in ensuring minimum conditions of work and drew attention to the risks associated with cutbacks in the activities of labour inspectorates, that is to say, the implications for the protection of atypical forms of employment, such as part-time and occasional employment. She added that women constituted the majority of the workforce in atypical employment and referred to the situation in Japan, where 52 per cent of employed women had an atypical work relation. Drawing the Committee's attention to the fact that child labour was more prevalent in the informal economy, the Worker member of the United Kingdom indicated that labour inspectorates could play their full role in the fight against this phenomenon only if they were empowered and able to inspect every workplace, whatever its nature. Responding to a number of governments on the question of "hidden" work, the speaker called for "the enabling of labour inspectorates to shine their light in every dark corner of the labour market". He supported the idea of comprehensive coverage, explaining that, in general, the least protected sectors were those where female labour was prevalent, as a result of which women did not enjoy protection equal to that enjoyed by men. He agreed strongly with his Japanese Worker colleague that labour inspectorates needed to recruit far more women inspectors, also because there were certain questions which would be appropriate only for a woman inspector to ask women workers and girl child labourers. That was an additional challenge for the one inspector, on enterprise model. Finally, he made three proposals aimed at increasing the effectiveness of labour inspection: (1) that SafeWork's contribution should be celebrated and supported; (2) that SafeWork should continue its close cooperation with the International Association of Labour Inspection. Labour inspectorates which were not members of the IALI should consider the benefits of membership to facilitate the exchange of experience and both SafeWork and the IALI should deepen their relationships with employers' and workers' organizations; and (3) that, as suggested by the Employer members, a greater exchange of good practice between member States would be beneficial. Constituents might consider the excellent record of the African Regional Labour Administration Centre (ARLAC) and consider replicating such regional cooperation. In the same vein, the Government member of the Dominican Republic emphasized the ratification by his country of the Worst Forms of Child Labour Convention, 1999 (No. 182), and the reinforcement of the inspection system through the adoption of Act No. 136 on the protection of fundamental rights of children and adolescents, as well as Act No. 137 on trafficking in persons.
- 126.** The Government member of Argentina referred to the implementation in 2003 of a labour inspection strategy, which led to a considerable decrease of the percentage of non-registered work. Within a period of three years, 400,000 workers were registered and 140,000 enterprises were inspected. Irregular employment in these enterprises had reached a level of 38 per cent, with a majority of non-registered workers and even non-registered enterprises as employers. The speaker acknowledged that the largest number of violations had been recorded in agriculture, the hotel-restaurant business, construction, commerce and services. With regard to domestic employment where the majority of workers were female, an inspection campaign had been launched and measures for the promotion of inspection had been taken in order to facilitate the registration of more than 100,000 workers. For the Government of Argentina, labour inspection was an absolute priority. In order to succeed, governments would have to break down cultural barriers,

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fraud and fraudulent intermediaries and also address the question of illegal migrant workers. The Worker member of Pakistan stressed the importance of labour inspection in areas where workers were vulnerable, including child labour, bonded labour, work in the informal sector in general, EPZs and agriculture. He also called for the deployment of women inspectors in certain areas of work to address issues related to discrimination and sexual harassment. The Worker member of Morocco mentioned mines as hazardous workplaces.

- 127.** In reference to Convention No. 129, the Worker member of Pakistan noted that it covered agriculture, a sector which involved many women workers where sharecropping and other feudal types of working arrangements under which workers enjoyed few rights continued to exist, and, following the example of many other members of the Committee, called for its ratification. Concurring with the comments of the Committee of Experts on labour inspection in agriculture, the Government member of Sweden reminded governments which had not yet ratified Convention No. 129 that that instrument did not require the establishment of a labour inspection system specifically for agriculture, and welcomed the proposal for a campaign to promote the ratification and implementation of Conventions, while underlining the importance of guaranteeing decent working conditions for workers in all sectors, particularly in agriculture which employed many women and children. The Government member of Portugal, as well as the Worker member of Senegal, associated themselves with the call for the ratification of the two Conventions.
- 128.** The Worker member of India stated that the rise in deregulation and privatization, new forms of subcontracting and outsourcing and gender discrimination had increased the importance of labour inspection. Moreover, governments and employers were pushing for more flexible labour legislation to promote employment with the result that those who created wealth were given less protection by the state. Governments, at the insistence of employers, had reduced labour inspectorates to a minimum. There were situations where workers were not receiving salaries. In this regard, he called for existing laws to be respected, the establishment of an effective labour inspection system and adequate penal sanctions for violations of the law. He also called for labour inspection in both the formal and informal sectors, and the extension of the scope of labour inspection to include health and safety, conditions of work, wages, social security and the implementation of collective agreements.
- 129.** The Worker member of Chad stated that the labour inspection in his country faced problems related to the size of the country (1,284,000 km<sup>2</sup>), the presence of migrant workers and the recent development of oil exploration. The Government member of Belgium drew the Committee's attention to the need for clarification of the concept of employment relationship and suggested that the ILO should prepare the tools so that member States could reinforce the capacities of labour inspection in this respect in view of the constantly changing world of labour. Well-managed inspectorates with increased resources would contribute to a sustainable and healthy economy, dynamic and balanced social dialogue and to combating illegal work. The Government member of the Libyan Arab Jamahiriya called for a review of the labour inspection instruments in view of new problems raised by migration, clandestine and atypical forms of employment and the new hazards in relation to occupational safety and health. The review should not only cover law but also practice and the role labour inspectors play in their supervision of compliance with legislation, the application of international standards and the reinforcement of social dialogue. His country was presently actively seeking to consolidate its own labour inspection system. For this purpose, provisions on labour inspection had been included in the Libyan Labour Code, as well as in the recently adopted legislation on social security and occupational safety and health. The ILO should provide technical assistance to member States so that they could develop all aspects of labour inspection, particularly strengthening its role in combating illegal cross-border migration and in the effective

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implementation of the relevant legislation. The Government member of Morocco underlined the crucial role that labour inspection played in monitoring the application of labour legislation. It therefore needed to be provided with resources and an appropriate infrastructure to discharge its functions. Labour inspection was now confronted with challenges that required a revision of working methods, particularly in relation to the informal sector. He announced the creation in the near future of a service with specific responsibility for supervising the application of the rights of domestic workers.

**130.** The Worker member of Colombia referred to the significant deterioration in labour inspection in agriculture, trade and other productive sectors in recent years, and considered that the various phenomena that were leading to the breakdown of labour relations and which were giving way to civil law contracts and, in general, the problems arising out of subcontracting, all provided good justification for wishing to reinforce labour inspection if decent work for all were to become a reality. The Government member of Uruguay stated that in the last 20 years, there had been, both in the regional and national economy, a sustained deterioration of the conditions of life and work of the population in general, due to the closure of many enterprises and the loss of thousands of jobs. Due to the economic crisis, some production sectors decided to operate at the limits of, or even outside the legal framework, creating many jobs that could not be considered as dignified and decent. This deterioration of present conditions of life and work had led to a deregularization with respect to labour legislation, favouring subcontracting, and resulting in a spread of socio-professional responsibility particularly in the area of social security. However, the speaker stated that the new financial legislation promoted tripartite actions through different sector committees, as for example the Consultative Council for Policy Evaluation of Labour Inspection in charge of evaluating, among other things, the measures for combating the informal economy and the promotion of occupational safety and health.

**131.** The Government member of Italy stated that his Government was fully aware of the fundamental role of the labour inspection in a world undergoing important changes affecting the application of the labour legislation and the protection of workers, and highlighted the need to expand the protection of workers and to develop a labour inspectorate which was able to adapt to changes so as to always rise up to the challenge of its mission.

### ***Diversity in the areas of competence and functions of the labour inspection***

**132.** The Worker member of the United Kingdom mentioned the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), by virtue of which all workers, without any distinction, had the right to establish organizations of their own choice and to join these organizations, in order to state that labour inspection, which was entrusted with ensuring respect for these universal rights, could not accomplish this task without itself having a comprehensive field of action. The Government member of Lebanon recalling the indicative character of Article 3, paragraph 1, of Convention No. 81, stated that a large number of areas not mentioned therein could be covered by labour inspection in relation to the application of provisions concerning conditions of work. In this context, she stated that the exclusive reference made by the Committee of Experts to Convention No. 129 did not suffice in order to explain the enlargement of the functions of the labour inspection. Moreover, the effects of technological and industrial development in the world of work had led to the emergence of various phenomena with negative effects on the conditions of work. She called on the ILO to issue practical guides or codes of conduct on the way in which labour inspection services should address this type of situation. She also inquired about the existence of a detailed list on the activities in the non-commercial services sector and considered that it would have been appropriate to append such a list to the Protocol commensurate to other Conventions whereby annexes were complementing

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its texts. Finally, the speaker wondered whether it might not be necessary to revise Convention No. 81, or certain of its provisions, in order to reflect the new functions of the labour inspectorate which could be generated by the diversity of employment sectors and the increase in occupational hazards.

- 133.** With regard to one of the principal areas of labour inspection in the world, that is to say, occupational safety and health, the Government member of France indicated that his country had established in 2005 an Occupational Health Plan. This was a new and complementary approach which required substantive work in order to promote the evolution of the occupational practices of the labour inspectorate, especially by reinforcing training and expertise. The Government member of the United Kingdom provided indications concerning the strategy on “Health – Work and Well-Being” established in his country in the framework of an integrated approach and wished to add that, while being responsible for preventive inspections of new major hazard plants, the labour inspectorate did not always carry out such inspections in practice for other new enterprises, as it considered that their cost was disproportionate to their utility with regard to the prevention of hazards. This mission was mainly carried out by local authorities.
- 134.** The Government member of Spain described the General Survey on Labour Inspection as excellent, a fact which did not prevent the existence of certain gaps when it came to the necessary, in his view, interpretation of Convention No. 81 in the light of the current world. Thus, he pointed to the absence of any reference to labour inspection in the twenty-first century, the necessary links between labour inspection and the global objective of decent work, and the decent work country profiles. He also pointed to the lack in the General Survey of any orientation to allow the Office to adapt its current administrative structure to the above objectives, except for the General Survey’s full recognition of the various national labour inspection systems. He also referred to the lack of nuance with which the General Survey addressed subjects like the conciliation function of the labour inspection and its role in the area of migration for employment, distinguishing in relation to this last point, the judicial, policing and labour inspection functions. He mentioned that the General Survey referred to a very important function of the state administration and not of a group of civil servants. He connected this function to the political philosophy of state intervention in labour relations, although he understood that this debate went beyond the scope of the Committee. He emphasized the importance of the discretionary competence to give warning and advice instead of instituting proceedings (Article 17.2 of Convention No. 81) and the advisability of reinforcing this ILO technical and assistance service. He indicated that the objective of labour inspection was not strictly to protect workers but to watch over the implementation of labour laws. Finally, he thanked the Director of the Office for his presence in the honorary committee on the first centenary of labour inspection in Spain, as well as for all the references made to this inspectorate in the General Survey.
- 135.** With regard to the functions of the labour inspection system, most of the speakers emphasized the importance of the function of controlling the implementation of legislation along with powers of legal enforcement against enterprises in breach of the law. Although the tendency to place emphasis on the pedagogical function of labour inspection emerged from the statements of certain representatives of governments from industrialized countries, most of the Worker members in particular, insisted on reinforcing the control function.
- 136.** The Government member of Japan indicated that in his country, special emphasis was placed on labour inspection on the appropriate way to manage worker despatching undertakings and on the protection of despatched workers, in collaboration with public employment agencies; and on labour inspection linked to the process of approving business activities and operations in collaboration with national institutions on transport



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and construction. The Government member of France underlined the complementarities of the two functions of control and advice and information while raising the issue of the difficulty of accomplishing these functions due to the limited means of inspection. The Government member of Lebanon recalled the importance of job assessment as a tool for ensuring the application of the principle of equality of treatment, the supervision of which was entrusted to labour inspectorates, and questioned whether the Office had laid down guiding principles in this respect. She also recognized the importance of the role of the system of inspection in the informal economy and in supervising child labour, and in the provision of instructions for protection against the HIV/AIDS epidemic. She also emphasized the importance of organizing seminars and workshops for labour inspectors on the provisions of Convention No. 81 and Convention No. 129, based on the contents of the General Survey for its scientific and comprehensive analysis of the two instruments. Other speakers referred to the evolution of the pedagogical function of the labour inspection with the development of modern information and communication technologies (ICT), thus echoing an issue which had been raised at length in the introductory declarations of the Employer and Worker members and treated in paragraphs 95 et seq. of the General Survey. The Government member of Mexico mentioned the official adoption on 8 November 2005 of a new electronic site (DECLARE) which enabled workers and employers to inform themselves of their legal rights and obligations. He underlined the importance of this interactive tool in order for the competent authorities, employers and workers to draw conclusions on the application of labour law, conditions of work, safety and the work environment, and in order to provide quick answers to concerns and questions. The Government member of the United Kingdom referred to the beneficial use of the Internet for the campaign “sensible health and safety” launched in his country.

- 137.** With regard to the enforcement aspect of the control function, the Worker member of Guatemala referred to paragraph 297 of the General Survey in order to inform the Committee that in his country, in 2004, the Constitutional Court had decided against enabling inspectors to impose sanctions on offenders of labour legislation. Nevertheless, a tripartite committee was given the task of negotiating the question of the application of the relevant legislation in a difficult climate. The Worker member of Senegal recalled the historical origin and institutional basis of labour inspection in his country, its prerogatives and competences, and went on to deplore the progressive weakening of this institution since the 1970s and the gradual amputation of its powers.
- 138.** Certain speakers wished to express themselves on a question which had been raised by the Employer and Worker members in slightly divergent terms, that of the enforcement function of labour inspection, which was gradually giving way in a certain number of industrialized countries to a voluntarist approach in bringing enterprises into conformity with legal provisions relative to conditions of work. The Worker member of the United Kingdom considered that voluntary social audit schemes based on the principle of corporate social responsibility should in no way replace the role of public labour inspection and the rule of law. Corporate social responsibility regimes, based on ILO standards and social dialogue, might promote a culture of compliance with the law among employers. However, far too many private social audit activities was at best amateur work and at worst an incompetent whitewash, with very high costs to enterprises for useless reports, and even higher costs to workers who did not benefit from the necessary protection or did not see any improvement in their situation. Nevertheless, there was little chance that private social auditing would disappear. For this reason, the speaker stated that an agreement should be sought so that the ILO could play a more coherent and rigorous role in the implementation of a commonly agreed system, allowing enterprises, trade unions, governments and consumers to measure the competence and credibility of private social auditors. While considering that the growing concern with regard to the treatment of occupational health and safety constituted a positive aspect, the Worker member of Norway wished to

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nevertheless underline that such systems should not replace labour inspection. The speaker argued for more severe sanctions to be applied to enterprises in violation.

- 139.** The Government member of Mexico observed that, during the last years, the situation of the world of work had considerably changed and labour inspection should adapt to the new pattern of labour relations and not confine itself to a strictly policing function. On the contrary, it pertained to the labour inspectorate to conceive of its role in a creative and positive manner, always having as its aim the stability of the enterprise and employment, in the interest of workers, through an improvement in the conditions of work and the work environment and awareness-raising on the benefits of prevention. Regarding footnote 1, which corresponded to paragraph 49 of the General Survey, it should be underlined that the general regulation on inspection and the application of sanctions for violation of labour legislation defined the mission of the inspector. Concerning paragraph 112 of the General Survey, it was appropriate to note that the regulation in question provided that the labour inspector could recommend the complete or partial closure of the establishment in case of imminent risk. The Government member of Spain considered that labour inspection should not be seen as a means of punishment in case of non-implementation of standards by entrepreneurs but also workers. Article 17, paragraph 2, of the Convention stated that it should be left to the discretion of labour inspectors to give warning and advice instead of instituting or recommending legal proceedings. It would be of fundamental importance to reinforce this aspect of inspection, by adding technical and assistance services to the enforcement function. The mission of labour inspection was to protect workers and not simply to oversee the implementation of laws. According to this view, labour inspection would lead to the protection of both workers and employers. The Government member of the Bolivarian Republic of Venezuela stated that member States should be endowed with a functional labour inspection system, providing for sanctions, as stipulated in Article 18 of Convention No. 81. Moreover, a culture of prevention, defence and application of obligations deriving from fundamental rights at work should be established. The speaker added that a new function of the labour inspection allowed to ensure respect for labour laws, i.e. the issuing of relevant certificates to enterprises, such as the certificate of respect for labour legislation which served as evidence of the law's implementation. This good practice could change a whole culture of non-respect for the Labour Law and lack of protection for the workers..
- 140.** Certain speakers also referred in their statements to the function of the labour inspectorate as defined in the ILO instruments, and consisting of a contribution to the improvement of legislation on conditions of work while bringing to the attention of the competent authority the abuses and defects not covered by existing legal provisions. They insisted on the importance that this aspect of labour inspection should be given at a time when many changes were constantly taking place in the world of work and the typology of the employment relationship. The question concerning the additional functions entrusted in many countries to labour inspectors gave rise to many interventions, like that of the Government member of Switzerland, who underlined the need to clearly distinguish between the so-called "classic" labour inspection and the new concept of "control of the labour market", which was closely linked to the measures accompanying the free movement of persons in an enlarged European Union and did not fall within the scope of Convention No. 81. He specified that the task of examining the wage conditions of the labour market was not in fact entrusted to the cantonal organs of labour inspection but to special control bodies. In order to reinforce these controls, some 150 labour market inspectors were or would soon be active in these new areas of competence without nevertheless being related to the implementation of Convention No. 81, which concerned the protection of workers' health in carrying out their tasks. Finally, the speaker indicated that a new law on the fight against illegal employment would enter into force in 2007 in order to create cantonal organs for the control of the labour market. The Government member of the United Kingdom recalled that the labour inspectorate had been established

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in his country as early as 1802 and maintained, in accordance with the Committee of Experts, that this function should be centred on conditions of work. He considered that the enlargement of the role of inspection so as to include the control of illegal employment was likely to give rise to problems.

141. The Government member of Belgium pronounced himself in favour of a reinforced involvement of the labour inspectorate in the fight against illegal employment, while the Government member of Spain wished to insist on the natural purpose of labour inspectors to play a pacifying role in industrial relations in a framework of procedures for the conciliation of individual labour disputes. The Worker member of the United States regretted that some member States allocated increasing resources to inspection in order to control and evaluate the activities of trade union organizations in an intrusive manner. Referring to paragraph 80 of the General Survey, he underlined that this supervision should be carried out within reasonable limits.

***Resources and powers of labour inspection:  
Two aspects of the public authorities'  
expression of political will***

142. Many interventions touched upon the question of human resources from the point of view of the number of staff, qualifications and conditions of service, as well as of the financial resources and logistics available to labour inspection as factors conditioning its effectiveness in attaining its objectives. The majority of speakers highlighted the obvious necessity to provide the inspection with the means corresponding to the magnitude and complexity of its tasks and responsibilities. For many of them, particularly from the least economically advanced countries, this question, which had long been marginalized in favour of other preoccupations of the decision-makers, had now become a vital priority due to the weakening of the workers in the context of globalization. For the Worker member of Kenya, discussing labour inspection without considering the important problem of its funding would be in vain. He objected to the demands of the international financial institutions to reduce public spending which produced negative effects particularly in the areas of health, education and work. The Worker member of the United Kingdom further developed this subject by demanding that Bretton Woods institutions stop obstructing ILO action in the sphere of labour inspection for the benefit of the developing countries. He referred to an observation of the Committee of Experts concerning a country where inspectors did not even have the paper to write on. He said that labour inspection was the poor relative of public expenditure everywhere and also noted that the Committee of Experts had commented that even in some rich industrialized countries, workplaces might be inspected as rarely as once in every 20 years. The Government member of Cuba highlighted the importance of the function of prevention in labour inspection, other than that of overseeing the implementation of workers' rights and the application of adequate measures in countries undergoing transition which were subjected to conditions imposed on them by international financial institutions. The Worker member of Colombia stressed the need to reinforce the number and qualification of the inspection staff, while the Government member of the Dominican Republic drew attention to the conditions of pay and professional career of inspectors. The Worker member of Chad highlighted the unrealistic situation in his country which had only six inspectors, including two in pre-retirement, to cover the territory of 1,284,000 km<sup>2</sup>.
143. The Worker member of the United States regretted the serious lack of resources devoted to labour inspection improvements within his country. Even if labour inspections took place, the recommendations that were made during these inspections were often not implemented, with grave results. Recently, 12 miners had died in West Virginia, due in large part to problems that had been recognized in previous inspection reports, and could easily have been rectified if prior inspection recommendations for infrastructure

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improvements had been implemented. The need to make significant efforts for the development of the qualifications and competence of inspectors was emphasized by numerous speakers, notably by the Government member of Japan, the Government member of the United Kingdom, and the Government member of Cuba, who described the situation in their respective countries. The Government member of Chad pleaded for the reopening of the unique African regional centre for labour administration (CRADAT), in order to provide additional training for inspectors in his country. Recent measures to increase budgets and staff of labour inspection were invoked by the Government members of France, Morocco, Uruguay and the Bolivarian Republic of Venezuela. Elaboration of codes of conduct or deontological guides for the profession was mentioned by the Government members of France, Italy and Morocco.

- 144.** With regard to the composition of the inspection staff, emphasis was placed on numerous occasions on the necessary collaboration of the experts and technicians with the generalists, particularly in the areas requiring specific scientific and technical knowledge (medicine, electricity, chemistry, agriculture etc.). Referring to the doubts expressed by the Employer members concerning the pertinence of confining special tasks to women inspectors, as suggested by the Committee of Experts, notably in relation to child labour and sectors where the majority of employees were women, the Worker member of Japan fully agreed with the position taken by the Committee of Experts. In this respect, the speaker underlined the specific role which women inspectors might fulfil in situations of sexual harassment of women workers in particular. She was supported on this point by the Government member of Sweden.

### ***Recognition of the impact of labour inspection on economic development***

- 145.** Sharing the opinion expressed by the Committee of Experts in its General Survey and by the Employer and Worker members in their introductory statements, the majority of speakers expressed their conviction that economic benefits resulted from labour inspection when it was accompanied with appropriate resources and adequate legal instruments. The Government member of the United Kingdom considered that such an environment was indispensable to ensuring stability and security of investments. According to the Government member of Uruguay, through the functions of control and evaluation, labour inspection contributed to the country's development and economic growth, as well as to the improvement of enterprises' productivity. The Government member of Switzerland said that protection of workers' health should remain the first concern of labour inspection, taking into account that it also determined the performance of enterprises. The Government member of Cuba fully shared the final statement of the Committee of Experts where it considered that solid and efficient labour inspection ensured not only better protection but also better prevention as well as increased labour productivity for the benefit of all.
- 146.** The large majority of speakers were of the opinion that a broad campaign for the ratification of the related Conventions, in particular Convention No. 129 applicable to agriculture, would be appropriate. They also called on the International Labour Office to carry out promotional activities for a better application of the instruments by the ratifying countries. In resonance with the Employer members, who considered a simple reiteration of the need for resources as insufficient in itself for producing an improvement of the situation, many speakers stressed the supporting role which the ILO could play in identifying the needs and seeking the funds within the framework of international financial cooperation. They said that the technical assistance of the Office would become fully meaningful when the financial conditions necessary for strengthening labour inspection systems were met in the least economically advanced countries.

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## **Final remarks**

- 147.** The Worker members observed that the discussion proved the importance of the instruments dealing with labour inspection and the economic and social benefits for all States to invest in the training of inspectors and the development of effective labour inspection services. They expressed reservations about the possible endorsement of the new concept of corporate social responsibility. While not rejecting such practices, they reiterated the need to have a classical regulatory framework for the work of the labour inspectorate and reaffirmed the responsibility of the State concerning ratification of Conventions and the guarantees of the application of the law. The Worker members denounced the increasing workload and dispersion of the tasks of labour inspection which diverted inspection from its primary mission to ensure the good application of labour legislation, and facilitate a better understanding and improvement of laws. Labour inspection reports were precious sources of information not only for the world of work but also for the political world. In this respect they called for the optimum utilization of the new information technologies, such as the Internet, for the rapid dissemination of information and in particular technical advice.
- 148.** With regard to questions of safety and health at work, the Worker members referred to the difficulties arising from the diversity of the definitions existing in the world of the notions of “industrial accident” and “occupational disease” and from the diversity of the methods of collecting pertinent data. They suggested making the 1996 Code of Practice on Recording and Notification of Occupational Accidents and Diseases the subject of a new promotional campaign, or at least of an evaluation of its impact, in the light of the observations made in the present General Survey with a view to achieving better synergy with the labour inspection.
- 149.** Finally, the Worker members underlined that the efficiency of labour inspection largely depended on the capacity of the public authorities to attract and retain qualified and motivated staff having technical skills as well as human qualities. The stability, independence, career perspectives and remuneration ensuring continuous commitment and preventing corruption were indispensable in this respect. For this purpose the Office should carry out training activities. However, it was first of all a question of the political will of the States. Appropriate fiscal policy would ensure proper funding of inspection services. Such policy should be promoted by the Bretton Woods institutions.
- 150.** The Employer members stated that the discussion reflected the high quality of the General Survey. There was a consensus on the importance of labour inspection for the implementation of ILO standards. Provision of adequate resources for labour inspection was essential but remained a challenge. In this respect, the ILO played a key role by providing the tools enabling member States to develop effective labour inspection.

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- 151.** With regard to the discussion on the General Survey, the chairperson of the Committee of Experts praised the Committee for the quality of the debate, which she would convey to her Committee. Stressing the preventive aspect of labour inspection, she noted the consensus which had emerged concerning the need to allocate adequate resources to labour inspectors and the provision of technical assistance by the ILO. Among the specific questions mentioned by the members of the Committee, she noted the observations of the Employer members and the Government member of Lebanon concerning the scope of functions of labour inspection in relation to paragraph 46 of the General Survey. She recalled the purely indicative nature of the list of the functional areas given in Article 3 of Convention No. 81 (hours of work, wages, safety, health and welfare, the employment of children and young persons, and other connected matters). Conventions were not frozen

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instruments; they had to be understood in the present context. Consequently, the application of Convention No. 81 could not ignore also fundamental rights, termination of the employment relationship and social security.

**152.** Referring to the question of assigning specific tasks to women labour inspectors and the warning by the Employer members against stigmatization of gender issues, the Chairperson of the Committee of Experts stressed that male labour inspectors might not be sensitive enough to certain issues relating in particular to women workers, such as the protection of maternity, discrimination, equality in treatment and wages, and sexual harassment. The speaker recalled in this respect the Labour Inspection Recommendation, 1923 (No. 20), which, notwithstanding the equality between male and female inspectors, recognized that inspection in certain sectors of work could be more ably carried out by women.

#### **D. Compliance with specific obligations**

**153.** In examining individual cases relating to compliance by States with their obligations under or relating to international labour standards, the Committee applied the same working methods and criteria as last year.

**154.** In applying those methods, the Committee decided to invite all governments concerned by the comments in paragraphs 21 (failure to supply reports for the past two or more years on the application of ratified Conventions), 27 (failure to supply first reports on the application of ratified Conventions), 31 (failure to supply information in reply to comments made by the Committee of Experts), 69 (failure to submit instruments to the competent authorities), and 75 (failure to supply reports for the past five years on unratified Conventions, unratified Protocols and Recommendations) of the Committee of Experts' report to supply information to the Committee in a half-day sitting devoted to those cases.

#### ***Submission of Conventions, Protocols and Recommendations to the competent authorities***

**155.** In accordance with its terms of reference, the Committee considered the manner in which effect was given to article 19, paragraphs 5-7, of the ILO Constitution. These provisions required member States within 12, or exceptionally 18, months of the closing of each session of the Conference to submit the instruments adopted at that session to the authority or authorities within whose competence the matter lies, for the enactment of legislation or other action, and to inform the Director-General of the ILO of the measures taken to that end, with particulars of the authority or authorities regarded as competent.

**156.** The Committee noted from the report of the Committee of Experts (paragraph 60) that considerable efforts to fulfil the submission obligation had been made in certain States, namely: **Algeria, Bolivia, Jamaica, Latvia, and the United Republic of Tanzania.**

**157.** In addition, the Committee was informed by various other States of measures taken to bring the instruments before the competent national authorities. It welcomed the progress achieved and expressed the hope that there would be further improvements in States that still experienced difficulties in complying with their obligations.

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## ***Failure to submit***

**158.** The Committee noted with regret that no indication was available that steps had been taken in accordance with article 19 of the Constitution to submit the instruments adopted by the Conference at the last seven sessions at least (from the 85th to the 91st Sessions) to the competent authorities, in the cases of **Afghanistan, Haiti, Sierra Leone, Solomon Islands, Somalia, Turkmenistan and Uzbekistan.**

## ***Supply of reports on ratified Conventions***

**159.** In Part II of its report (Compliance with obligations), the Committee had considered the fulfilment by States of their obligation to report on the application of ratified Conventions. By the date of the 2005 meeting of the Committee of Experts, the percentage of reports received was 69 per cent, compared with 64 per cent for the 2004 meeting. Since then, further reports had been received, bringing the figure to 78.3 per cent (as compared with 72.1 per cent in June 2005, and 72.6 per cent in June 2004).

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

**160.** The Committee noted with regret that no reports on ratified Conventions had been supplied for the past two or more years by the following States: **Antigua and Barbuda, Armenia, Gambia, Iraq, Liberia, Saint Lucia, Sao Tome and Principe, The former Yugoslav Republic of Macedonia, Turkmenistan and United Kingdom (St. Helena).**

**161.** The Committee also noted with regret that no first reports due on ratified Conventions had been supplied by the following countries: since 1992: **Liberia** (Convention No. 133); since 1995: **Armenia** (Convention No. 111), **Kyrgyzstan** (Convention No. 133); since 1996: **Armenia** (Conventions Nos. 100, 122, 135, 151); since 1998: **Armenia** (Convention No. 174), **Equatorial Guinea** (Conventions Nos. 68, 92); since 1999: **Turkmenistan** (Conventions Nos. 29, 87, 98, 100, 105, 111); since 2001: **Armenia** (Convention No. 176), **Kyrgyzstan** (Convention No. 105); since 2002: **Bosnia and Herzegovina** (Convention No. 105), **Gambia** (Conventions Nos. 29, 105, 138), **Saint Kitts and Nevis** (Conventions Nos. 87, 98, 100), **Saint Lucia** (Conventions Nos. 154, 158, 182); since 2003: **Bosnia and Herzegovina** (Convention No. 182), **Dominica** (Convention No. 182), **Gambia** (Convention No. 182), **Iraq** (Conventions Nos. 172, 182), **Serbia and Montenegro** (Conventions Nos. 24, 25, 27, 113, 114); and since 2004: **Albania** (Conventions Nos. 150, 178), **Antigua and Barbuda** (Conventions Nos. 122, 131, 135, 142, 144, 150, 151, 154, 155, 158, 161, 182), **Burundi** (Convention No. 182), **Dominica** (Conventions Nos. 144, 169), **The former Yugoslav Republic of Macedonia** (Convention No. 182). It stressed the special importance of first reports on which the Committee of Experts based its first evaluation of compliance with ratified Conventions.

**162.** In this year's report, the Committee of Experts noted that 46 governments had not communicated replies to most or any of the observations and direct requests relating to Conventions on which reports were due for examination this year, involving a total of 385 cases (compared with 444 cases in December 2004). The Committee was informed that, since the meeting of the Committee of Experts, 22 of the governments concerned had sent replies, which would be examined by the Committee of Experts at its next session.

**163.** The Committee noted with regret that no information had yet been received regarding any or most of the observations and direct requests of the Committee of Experts to which replies were requested for the period ending 2005 from the following countries: **Antigua and Barbuda, Belize, Burkina Faso, Cambodia, Comoros, Congo, Equatorial Guinea,**

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Eritrea, Gambia, Iraq, Kazakhstan, Kyrgyzstan, Liberia, Namibia, Saint Lucia, San Marino, Sao Tome and Principe, Senegal, Seychelles, Singapore, The former Yugoslav Republic of Macedonia, Togo, United Kingdom (Anguilla, Montserrat, St. Helena) and Zambia.

164. The Committee noted the explanations provided by the governments of the following countries concerning difficulties encountered in discharging their obligations: **Afghanistan, Angola, Armenia, Bosnia and Herzegovina, Burkina Faso, Burundi, Cambodia, Congo, Democratic Republic of the Congo, Djibouti, Dominican Republic, Eritrea, Guinea, Guyana, Haiti, Kiribati, Namibia, San Marino, Senegal, Serbia and Montenegro, Seychelles, Singapore, Togo, Uganda and United Kingdom** (Anguilla, Montserrat, St. Helena).
165. The Committee stressed that the obligation to transmit reports was the basis of the supervisory system. It requested the Director-General to adopt all possible measures to improve the situation and solve the problems referred to above as quickly as possible. It expressed the hope that the subregional offices would give all due attention in their work in the field to standards-related issues and, in particular, to the fulfilment of standards-related obligations. The Committee also bore in mind the reporting arrangements approved by the Governing Body in November 1993, which came into operation from 1996, and the modification of these procedures adopted in March 2002 which came into force in 2003.

### ***Supply of reports on unratified Conventions, unratified Protocols and Recommendations***

166. The Committee noted that 453 of the 884 article 19 reports requested on the Labour Inspection Convention, 1947 (No. 81), the Protocol of 1995 to the Labour Inspection Convention, 1947, the Labour Inspection Recommendation, 1947 (No. 81), the Labour Inspection (Mining and Transport) Recommendation, 1947 (No. 82), the Labour Inspection (Agriculture) Convention, 1969 (No. 129), and the Labour Inspection (Agriculture) Recommendation, 1969 (No. 133), had been received at the time of the Committee of Experts' meeting, and a further 14 since, making 52.8 per cent in all.
167. The Committee noted with regret that over the past five years none of the reports on unratified Conventions, unratified Protocols and Recommendations, requested under article 19 of the Constitution, had been supplied by: **Albania, Angola, Antigua and Barbuda, Armenia, Bosnia and Herzegovina, Cape Verde, Comoros, Congo, Democratic Republic of the Congo, Djibouti, Dominican Republic, Guinea, Guyana, Kazakhstan, Kiribati, Kyrgyzstan, Liberia, Sao Tome and Principe, Sierra Leone, Solomon Islands, Somalia, Tajikistan, The former Yugoslav Republic of Macedonia, Togo, Turkmenistan, Uganda and Uzbekistan.**

### ***Communication of copies of reports to employers' and workers' organizations***

168. Once again this year, the Committee did not have to apply the criterion: "the Government has failed during the past three years to indicate the representative organizations of employers and workers to which, in accordance with article 23(2) of the Constitution, copies of reports and information supplied to the ILO under articles 19 and 22 have been communicated".



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## ***Application of ratified Conventions***

- 169.** The Committee noted with particular interest the steps taken by a number of governments to ensure compliance with ratified Conventions. The Committee of Experts listed in paragraph 44 of its report new cases in which governments had made changes to their law and practice following comments it had made as to the degree of conformity of national legislation or practice with the provisions of a ratified Convention. There were 55 such cases, relating to 41 countries; 2,484 cases where the Committee had been led to express its satisfaction with progress achieved since the Committee of Experts began listing them in 1964. These results were tangible proof of the effectiveness of the supervisory system.
- 170.** This year, the Committee of Experts listed in paragraph 47 of its report, cases in which measures ensuring better application of ratified Conventions had been noted with interest. It had noted 289 such instances in 103 countries.
- 171.** At its present session, the Conference Committee was informed of other instances in which measures had recently been or were about to be taken by governments with a view to ensuring the implementation of ratified Conventions. While it was for the Committee of Experts to examine these measures, the present Committee welcomed them as fresh evidence of the efforts made by governments to comply with their international obligations and to act upon the comments of the supervisory bodies.

## ***Specific indications***

- 172.** The Government members of **Afghanistan, Angola, Armenia, Bosnia and Herzegovina, Burkina Faso, Burundi, Cambodia, Congo, Democratic Republic of the Congo, Djibouti, Dominican Republic, Eritrea, Guinea, Guyana, Haiti, Kiribati, Namibia, San Marino, Senegal, Serbia and Montenegro, Seychelles, Singapore, Togo, Uganda, the United Kingdom** (Anguilla, Montserrat, St. Helena) and **Zambia** had promised to fulfil their reporting obligations as soon as possible.

## ***Case of progress***

- 173.** The Committee noted with satisfaction that in the case of Ireland (Convention No. 159) on Vocational Rehabilitation and Employment (Disabled Persons), the Government had taken, in association with the Irish social partners, various positive measures concerning the application of this Convention. It considered the highlighting of this case a positive example to encourage governments to positively respond to comments of the supervisory bodies.

## ***Special sitting concerning the application by Myanmar of the Forced Labour Convention, 1930 (No. 29)***

- 174.** The Committee held a special sitting concerning the application by Myanmar of Convention No. 29, in conformity with the resolution adopted by the Conference in 2000. A full record of the sitting appears in Part III of the report.

## ***Special cases***

- 175.** The Committee considered it appropriate to draw the attention of the Conference to its discussion of the cases mentioned in the following paragraphs, a full record of which appears as Part II of this report.

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**176.** As regards the application by **Bangladesh of the Right to Organise and Collective Bargaining Convention, 1949 (No. 98)**, the Committee noted the information provided by the Government representative and the debate that followed. The Committee observed that the pending issues referred to: restrictions to the right to organize and bargain collectively in export processing zones; the absence of legal protection against acts of interference in organizations; excessive representativity requirements provided for in the law regarding the exercise of the right to bargain collectively; and the determination of wage rates and other employment conditions in the public sector by tripartite pay committees appointed by the Government, rather than letting the parties concerned bargain freely on these issues. The Committee noted the Government's explanations in respect of the Export Processing Zones Act and its statement that the process of framing the draft Labour Code was taking longer than expected. The Committee expressed its deep concern that the Government was not in a position to provide information on concrete steps or progress made in respect of the matters raised by the Committee of Experts. It underlined the necessity of settling without delay the persistent problems raised concerning the application of the Convention, and the importance of providing appropriate protection against acts of interference and of guaranteeing the exercise of free and voluntary collective bargaining in the public and private sectors, without legal impediments. The Committee emphasized in particular the serious difficulties that prevailed as regarded the exercise of workers' rights in export processing zones, and urged the Government to take measures to eliminate the remaining obstacles in law and in practice. The Committee trusted that the necessary measures would be taken in the very near future in full consultation with the social partners concerned and that the authorities would soon adopt a Labour Code that guaranteed the full application of the Convention in law and in practice. The Committee urged the Government to make all efforts in this regard and requested it to provide the Committee of Experts with a complete report on all the measures taken in this respect and its observations on the statements concerning severe social unrest raised in the Committee. It urged the Government to request the technical assistance of the Office in order to resolve these grave problems and to put in place durable solutions.

**177.** As regards the application by **Belarus of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98)**, the Committee took note of the statement made by the Government representative, the Deputy Minister of Labour, and the written information provided, as well as the discussion that took place thereafter. The Committee recalled that it had examined this case last year, when it deplored the absence of any real concrete and tangible measures on the part of the Government to implement the recommendations of the Commission of Inquiry. While noting that the mission, which this Committee had urged the Government to accept when it discussed this case last year, had finally taken place at the beginning of the year, the Committee regretted that as a consequence of this delay, the mission report had not been available for the meeting of the Committee of Experts. The Committee recalled the serious discrepancies between the law and practice and the provisions of the Conventions that had been raised by the Commission of Inquiry and the Committee of Experts. The Committee noted the Government's reiteration that a special plan of action had been adopted aimed at implementing the recommendations of the Commission of Inquiry, taking into account the complex nature of these recommendations. The Committee further noted that the Government had recalled its publication of the recommendations of the Commission of Inquiry in the magazine of the Ministry of Labour, as well as the letter it had addressed to the state administrative bodies on the development of social partnership. The Committee further noted the Government's stated intention to elaborate changes to the national legislation, taking into account national circumstances and interests, which would envisage some points raised by the Commission of Inquiry, including the procedure for registering trade unions. The Committee however further noted with deep concern the statements made concerning the further difficulties faced by trade union leaders and members affiliated to the Congress of Democratic Trade

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Unions (CDTU), including arrests and detentions and the changes to the procedures relating to the National Council on Labour and Social Issues, resulting in the loss of its seat on the Council. The Committee deplored the continued failure by the Government to implement the recommendations of the Commission of Inquiry and shared the sense of urgency deriving from the comments of the Committee of Experts in relation to the survival of any form of independent trade union movement in Belarus. It deplored the fact that it had to note that nothing the Government had said demonstrated an understanding of the gravity of the situation investigated by the Commission of Inquiry or the necessity of rapid action to redress the effects of these severe violations of the most basic elements of the right to organize. It called upon the Government to take concrete steps for the implementation of these recommendations so that real and tangible progress could be noted by the November session of the Governing Body. If no such progress could be noted, the Committee trusted that the Governing Body would begin to consider, at that time, whether further measures under the ILO Constitution should be considered. The ILO should make available any technical assistance the Government might request provided that such assistance was needed for the concrete implementation of the recommendations of the Commission of Inquiry and the Committee of Experts. The Committee further trusted that the situation of independent trade unions in Belarus would be closely monitored by the ILO and that appropriate action would be taken in the event of repressive measures by the Government. The Committee requested the Government to provide a full report on all measures taken to implement the recommendations of the Commission of Inquiry for examination at the forthcoming session of the Committee of Experts.

### ***Continued failure to implement***

178. The Committee recalled that its working methods provided for the listing of cases of continued failure over several years to eliminate serious deficiencies, previously discussed, in the application of ratified Conventions. This year the Committee noted with great concern that there had been continued failure over several years to eliminate serious discrepancies in the application by **Belarus of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98)**.
179. The government of the country to which reference was made in paragraph 176 was invited to supply the relevant reports and information to enable the Committee to follow up the abovementioned matter at the next session of the Conference.

### ***Participation in the work of the Committee***

180. The Committee wished to express its gratitude to the 47 governments which had collaborated by providing information on the situation in their countries and participating in the discussion of their individual cases.
181. The Committee regretted that, despite the invitations, the governments of the following States failed to take part in the discussions concerning their countries, fulfilment of their constitutional obligations to report: **Albania, Belize, Cape Verde, Iraq, Kazakhstan, Liberia, Tajikistan and The former Yugoslav Republic of Macedonia**. It decided to mention the cases of these States in the appropriate paragraphs of its report and to inform them in accordance with the usual practice.
182. The Committee noted with regret that the governments of the States which were not represented at the Conference, namely: **Antigua and Barbuda, Comoros, Dominica, Equatorial Guinea, Gambia, Kyrgyzstan, Saint Kitts and Nevis, Saint Lucia, Sao Tome and Principe, Sierra Leone, Solomon Islands, Somalia, Turkmenistan and**

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**Uzbekistan** were unable to participate in the Committee's examination of the cases relating to them. It decided to mention these countries in the appropriate paragraphs of this report and to inform the governments, in accordance with the usual practice.

Geneva, 14 June 2006.

*(Signed)* Mr. Sérgio Paixão Pardo,  
Chairperson.

Mr. Jinno Nkhambule,  
Reporter.