



Governing Body

332nd Session, Geneva, 8–22 March 2018

GB.332/INS/PV

Institutional Section

INS

MINUTES

Institutional Section

Contents

	<i>Page</i>
Opening remarks by the Director-General	4
First item on the agenda Approval of the minutes of the 331st Session of the Governing Body (GB.332/INS/1)	5
Second item on the agenda Agenda of the International Labour Conference (GB.332/INS/2)	5
Third item on the agenda Review of annual reports under the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work (GB.332/INS/3)	16
Fourth item on the agenda Report of the Tenth European Regional Meeting (Istanbul, 2–5 October 2017) (GB.332/INS/4)	21
Fifth item on the agenda The Standards Initiative: Implementing the workplan for strengthening the supervisory system – Progress report (GB.332/INS/5(Rev.))	21
Sixth item on the agenda Results of the implementation of the ILO Action Plan for Gender Equality 2016–17, and outline of the subsequent ILO Action Plan (GB.332/INS/6)	36

Seventh item on the agenda Review and possible revisions of formats and standing orders for meetings (GB.332/INS/7)	42
Eighth item on the agenda Follow-up to the resolution concerning remaining measures on the subject of Myanmar adopted by the Conference at its 102nd Session (2013) (GB.332/INS/8)	42
Ninth item on the agenda Complaint concerning non-observance by Guatemala of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), made by delegates to the 101st Session (2012) of the International Labour Conference under article 26 of the ILO Constitution – Information on progress achieved (GB.332/INS/9(Rev.))	48
Tenth item on the agenda Complaint concerning non-observance by the Bolivarian Republic of Venezuela of the Minimum Wage-Fixing Machinery Convention, 1928 (No. 26), the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), made under article 26 of the ILO Constitution by several delegates to the 104th Session (2015) of the International Labour Conference (GB.332/INS/10(Rev.))	53
Financial implications of a commission of inquiry (GB.332/INS/10(Add.))	61
Eleventh item on the agenda Reports of the Committee on Freedom of Association	61
Twelfth item on the agenda Report of the Working Party on the Functioning of the Governing Body and the International Labour Conference (GB.332/INS/12)	62
Composition of the Governing Body: Update on the status of ratification of the 1986 Instrument for the Amendment of the Constitution of the ILO	62
Functioning of the International Labour Conference: Arrangements for the 107th Session (2018)	63
Comprehensive review of the Standing Orders of the Conference: Progress report of the inter-sessional consultations	63
Review of the role and functioning of the Regional Meetings: Consolidated version of the Rules for Regional Meetings and the Introductory Note	63
Thirteenth item on the agenda Report of the Working Party on the Social Dimension of Globalization (GB.332/INS/13)	64
Fourteenth item on the agenda Report of the Director-General (GB.332/INS/14)	64

	<i>Page</i>
Obituary: Mr Bingen de Arbeloa (GB.332/INS/14(Add.)).....	65
First Supplementary Report: Report of the Meeting of Experts to Promote Decent Work and Protection of Fundamental Principles and Rights at Work for Workers in Export Processing Zones (Geneva, 21–23 November 2017) (GB.332/INS/14/1).....	65
Second Supplementary Report: Documents submitted for information only (GB.332/INS/14/2).....	69
Third Supplementary Report: Replacement of a member of a Governing Body committee set up to examine a representation submitted in accordance with article 24 of the ILO Constitution (GB.332/INS/14/3).....	69
Fifteenth item on the agenda Reports of the Officers of the Governing Body	69
Sixteenth item on the agenda Programme, composition and agenda of standing bodies and meetings (GB.332/INS/16(Rev.)).....	70
Decisions	70
Meeting of Experts on Defining Recruitment Fees and Related Costs (Geneva, 14–16 November 2018).....	70
Invitations of intergovernmental organizations and international non-governmental organizations to official meetings.....	71
107th Session of the International Labour Conference (Geneva, 28 May–8 June 2018)	71
Invitation of observers to other official meetings	71
Programme of meetings for 2018 and 2019.....	71
Other business	71
Closure of the session.....	72

1. The Institutional Section met on Monday, 12 March, Thursday, 15 March and Friday, 16 March, and from Tuesday, 20 March to Thursday, 22 March 2018. The Chairperson of the Governing Body, Mr L. Cortebeeck (Worker, Belgium), chaired the Section. The Employer Vice-Chairperson of the Governing Body, Mr M. Mdwaba (South Africa), was the Employer spokesperson for the Section, except in respect of item 3, “Review of annual reports under the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work”, where Mr R. Dubey was spokesperson; item 4, “Report of the Tenth European Regional Meeting (Istanbul, 2–5 October 2017)”, where Ms R. Hornung-Draus was spokesperson; item 6, “Results of the implementation of the ILO Action Plan for Gender Equality 2016–17, and outline of the subsequent ILO proposed Action Plan”, where Ms A. Vauchez was spokesperson; item 11, “Reports of the Committee on Freedom of Association”, where Mr A. Echavarría was spokesperson; and item 12, “Report of the Working Party on the Functioning of the Governing Body and the International Labour Conference”, where Mr S. Barklamb was spokesperson. Ms C. Passchier (Netherlands) spoke for the Workers, except in respect of item 3, where Ms A. Brown was spokesperson; item 6, where Ms S. Cappuccio was spokesperson; and item 11, where Mr J.E. Ohrt was spokesperson.
2. The following Governing Body members chaired the remaining Sections and Segments of the 332nd Session:

Policy Development Section

Employment and Social Protection Segment

(Tuesday, 13 March 2018)

Chairperson: Mr R. Behzad (Islamic Republic of Iran)

Employer spokesperson: Mr B. Matthey

Worker spokesperson: Mr P. Dimitrov

Social Dialogue Segment

(Tuesday, 13 March 2018)

Chairperson: Mr E.A. Essah (Nigeria)

Employer spokespersons:

Item 2, “Sectoral meetings held in 2017 and proposals for sectoral work in 2018–19”:
Mr A. Tan

Item 3, “Follow-up to the IV Global Conference on the Sustained Eradication of Child Labour (Buenos Aires, 14–16 November 2017)”: Ms V. Giulietti

Worker spokespersons:

Item 2: Mr B. Thibault

Item 3: Mr G. Martínez

Development Cooperation Segment

(Wednesday, 14 March 2018)

Chairperson: Mr L. Cortebeeck (Worker, Belgium)

Employer spokesperson: Ms J. Mugo

Worker spokespersons:

Item 4, “ILO South–South and triangular cooperation and decent work: Recent developments and future steps”: Mr M. Guiro

Item 5, “An integrated ILO strategy to address decent work deficits in the tobacco sector”: Ms C. Passchier

Multinational Enterprises Segment

(Wednesday, 14 March 2018)

Chairperson: Mr T. Dedieu (France)

Employer spokesperson: Ms R. Hornung-Draus

Worker spokesperson: Mr B. Ntshalintshali

Legal Issues and International Labour Standards Section

Legal Issues Segment

(Wednesday, 14 March and Thursday, 15 March 2018)

Chairperson: Mr G. Corres (Argentina)

Employer spokespersons:

Item 1, “Follow-up to the discussion on the protection of Employers’ and Workers’ delegates to the International Labour Conference and members of the Governing Body in relation to the authorities of a State of which they are a national or a representative”: Mr H. Diop

Item 2, “Composition of the International Labour Conference: Proportion of women and men in delegations”: Ms H. Liu

Worker spokespersons:

Item 1: Ms C. Passchier

Item 2: Ms A. Brown

International Labour Standards and Human Rights Segment

(Thursday, 15 March and Wednesday, 21 March 2018)

Chairperson: Mr G. Corres (Argentina)

Employer spokesperson: Mr F. Yllanes

Worker spokesperson: Ms A. Brown

Programme, Financial and Administrative Section

Programme, Financial and Administrative Segment

(Monday, 12 March, Tuesday, 13 March, Thursday, 15 March, and Thursday, 22 March 2018)

Chairperson: Mr L. Cortebeeck (Worker, Belgium)

Employer spokespersons:

Item 1, “ILO programme implementation 2016–17”: Mr M. Mdwaba

Item 2, “Delegation of authority under article 18 of the Standing Orders of the International Labour Conference”; item 3, “Update on the headquarters building renovation project”; item 4, “Report of the Government members of the Governing Body for allocation of expenses”; and item 5, “Other financial questions – Programme and Budget for 2016–17: Regular budget account and Working Capital Fund as at 31 December 2017”: Mr J.M. Lacasa

Worker spokesperson: Ms C. Menne

Audit and Oversight Segment

(Tuesday, 13 March 2018)

Chairperson: Mr L. Cortebeek (Worker, Belgium)

Employer spokespersons:

Item 6, “Report of the Independent Oversight Advisory Committee”, and item 7, “Report of the Chief Internal Auditor for the year ended 31 December 2017”: Mr J.M. Lacasa

Item 8, “ILO results-based Evaluation Strategy 2018–21”: Mr K. Ghariani

Worker spokesperson: Ms C. Menne

Personnel Segment

(Tuesday, 13 March and Wednesday, 20 March 2018)

Chairperson: Mr L. Cortebeek (Worker, Belgium)

Employer spokesperson: Mr O. Oshinowo

Worker spokesperson: Ms C. Menne

High-Level Section

Working Party on the Social Dimension of Globalization (WP/SDG)

(Monday, 19 March 2018)

Chairperson: Mr L. Cortebeek (Worker, Belgium)

Employer spokesperson: Mr M. Mdwaba

Worker spokesperson: Ms C. Passchier

Strategic Policy Segment

(Monday, 19 March 2018)

Chairperson: Mr L. Cortebeek (Worker, Belgium)

Employer spokesperson: Ms A. Vauchez

Worker spokesperson: Mr A. Wabba

Working Party on the Functioning of the Governing Body and the International Labour Conference

(Friday, 16 March 2018)

Chairperson: Mr L. Cortebeek (Worker, Belgium)

Employer spokespersons:

Item 1, “Composition of the Governing Body: Update on the status of ratification of the 1986 Instrument for the Amendment of the Constitution of the ILO”: Mr V. Gill

Item 2, “Functioning of the International Labour Conference: Arrangements for the 107th Session (2018)”, and item 3, “Comprehensive review of the Standing Orders of the Conference: Progress report of the inter-sessional consultations”: Mr S. Barklamb

Item 4, “Review of the role and functioning of the Regional Meetings: Consolidated version of the *Rules for Regional Meetings* and the Introductory Note”:
Ms R. Hornung-Draus

Worker spokesperson: Ms C. Passchier

Committee on Freedom of Association

(Thursday, 8 March to Friday, 9 March 2018)

Chairperson: Mr T. Teramoto (Japan)

Employer Vice-Chairperson: Mr A. Echavarría

Worker Vice-Chairperson: Mr Y. Veyrier ¹

Opening remarks by the Director-General

3. *The Director-General* said that some of the issues being addressed at the current session of the Governing Body were difficult and would require members to reach a not-always-easily-obtained tripartite consensus, based on real consideration of the views of others and readiness to find common ground. With regard to the United Nations (UN) reform and its implications for the ILO, the Organization had strongly supported and actively contributed to the reform process, with a view to ensuring a more coherent, more effective UN system that could deliver results, particularly in relation to the 2030 Agenda for Sustainable Development (2030 Agenda). While the Standards Initiative was one of the most ambitious tasks undertaken by the Governing Body, the difficulties relating to the Initiative could be overcome and progress could be made at the current session. The Governing Body had two complaints under article 26 of the ILO Constitution on its agenda, both of which should be addressed objectively, dispassionately and with the sole and explicit aim of securing the full application of the ratified Conventions concerned. The case of Qatar, for which the ILO was establishing a technical cooperation programme, provided an excellent example of a case in which significant progress had been made. With regard to the 2019 International Labour Conference, the Governing Body must decide whether the second discussion of the standard-setting item on violence and harassment at work should be undertaken, with a view to the adoption of instruments on violence and harassment at work.
4. The report on the implementation of the last ILO Action Plan for Gender Equality and the outline for the next plan should command full attention of the Governing Body, as the plan was central to the realization of the ILO’s programme and mandate. The ILO must also review its procedures and protections in respect of sexual harassment and misconduct in order to ensure that it provided a safe and respectful working environment for all. In that connection, a campaign against sexual harassment and misconduct had been launched by the Organization the previous week.

¹ Substituting Ms C. Passchier.

5. With regard to outstanding issues from the 331st Session of the Governing Body, the Office had tabled an integrated strategy to address major decent work deficits in the tobacco sector and broadened the previous, rather limited, focus on child labour. The strategy, if approved by the Governing Body, would serve as a concrete example of the ILO's determination to meet its responsibilities to those working in the sector and to the member States for whom it had particular significance and as a platform for the appropriate mobilization of resources. With regard to the proposed revision of the *Rules for Regional Meetings*, the Office had done its best to produce a consensus text that brought together the views of various parties in the hopes that the upcoming American Regional Meeting would proceed on the basis of a full agreement on the applicable rules. As to the decision of the International Civil Service Commission (ICSC) regarding the post adjustment index for Geneva, while the decision raised important managerial, methodological and legal questions for the ILO and would have a significant impact on its Professional and higher level staff, the draft decision before the Governing Body called for the implementation of the ICSC's decision, which appeared to be the necessary, though difficult, course that must be followed.
6. The renovation of the ILO building was progressing smoothly, on time and within budget, and should be completed in 2019. However, the current works under way constituted only the first phase of renovations, and the Governing Body would have to agree on a way to finance the second phase, which would cover the meeting rooms and ground floor levels of the building. Attention was drawn to the fact that there were clear and considerable cost advantages to ensuring continuity between the two phases of renovations.

First item on the agenda

Approval of the minutes of the 331st Session of the Governing Body

([GB.332/INS/1](#))

7. *An Employer member from South Africa* said that, although he supported the adoption of the minutes of the 331st Session of the Governing Body, he would welcome further information on two of the areas agreed to in the Knowledge Strategy 2018–21, namely, the research agenda for the next biennium and the ways in which the Office would connect with constituents at the regional and national levels. He would also welcome news on the status of the skills programme for migrant workers.

Decision

8. *The Governing Body approved the minutes of its 331st Session, as amended.*

(GB.332/INS/1, paragraph 2.)

Second item on the agenda

Agenda of the International Labour Conference

([GB.332/INS/2](#))

9. *The Worker spokesperson* said that she supported the strategic and coherent approach to setting the Conference agenda as foreseen by the ILO Declaration on Social Justice for a Fair Globalization, 2008 (Social Justice Declaration) and agreed to the inclusion of the

approval of the proposed amendments to the Code of the Maritime Labour Convention, 2006, on the agenda of the 2018 International Labour Conference if recommended by the Special Tripartite Committee at its meeting in April. The Workers expected that the September meeting of the Standards Review Mechanism Tripartite Working Group (SRM TWG) would make recommendations on the follow-up to its decisions on occupational safety and health, particularly those related to standard-setting activities. They further expected that the Governing Body would place the relevant items on the Conference agenda and that the Office would allocate the necessary resources. That was an institutional priority, as it would ensure that the ILO had a body of up-to-date standards addressing gaps in workers' protection. Topics for new standards beyond 2019 should also continue to be identified outside the SRM TWG, for example in the future of work discussion, the follow-up to the global supply chains discussions or in technical meetings. With regard to the 2018 Conference agenda, she expressed disappointment that there were no plans to celebrate the 20th anniversary of the ILO Declaration on Fundamental Principles and Rights at Work, 1998 (1998 Declaration) and the tenth anniversary of the Social Justice Declaration, nor similar anniversaries 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 2018 Conference was an opportunity to reinvigorate the campaign for the universal ratification of core Conventions. A discussion on the future of work at the 2019 Conference would need to consider the normative framework that would shape work relations in the twenty-first century. It was essential to support the principles enshrined in the Declaration of Philadelphia by the ratification and implementation of the core Conventions in order to ensure that economic development and social progress went hand in hand.

10. With regard to the agenda of the 2019 Conference, the Workers strongly favoured scheduling the second discussion of the standard-setting item on violence and harassment at work, in order to ensure continuity in the negotiations. The problem, which confronted many workers worldwide, should be addressed in the shortest possible time frame. It was symbolically important to start the ILO's second century with the adoption of a Convention, supplemented by a Recommendation. The group therefore supported the agenda outlined in paragraph 17 of the document. The proposals in paragraphs 18 to 22 for scheduling centenary activities and discussions on the future of work were pertinent but needed further refinement. The Committee on the Application of Standards (CAS) could include a centenary-related component, provided that the Committee could still perform its essential supervisory function without reducing the number of cases. The Director-General's Report to the Conference should be used to transmit the report of the Global Commission on the Future of Work, as that would frame the debate on the Commission's report and facilitate the adoption of an ambitious outcome document. The ILO centenary justified a high-level political tripartite commitment and was the occasion for renewed commitment not only to abstract values, but to putting those values into practice for working women and men. The Workers supported the proposal for the outcome document to be discussed in a Committee of the Whole. With regard to the celebration of the ILO centenary, while space should be reserved on the agenda for dialogues and debates, the interaction between the Committee of the Whole, dialogues and debates, and the plenary needed to be clearly established well in advance.
11. Her group supported the continuation of a strategic approach to setting the agenda of the Conference beyond 2019. Regional Meetings were an important means to promote and implement ILO standards and global priorities but were less appropriate for informing the agenda-setting process for the Conference, given the narrow, regional dimension of the discussions. Subjects for the 2020 Conference and beyond could include standards relating to occupational safety and health, further to the discussions of the SRM TWG. For the 2020 Conference agenda, the Workers supported the proposal for a standard-setting discussion on apprenticeships. Apprenticeship programmes were a useful tool for addressing

unemployment and could support the transfer of skills, leading to decent work. The SRM TWG had also identified a regulatory gap in respect of apprenticeships. It was not necessary to hold a meeting of experts to discuss the scope and content of the instrument(s) ahead of the Conference discussion. The usual procedure whereby the Office sent a questionnaire to ILO constituents would be sufficient. The Workers supported the proposal for a Convention supplemented by a Recommendation on a just transition of the world of work towards environmentally sustainable economies and societies for all. That standard would provide a timely ILO contribution to the 2030 Agenda and would appropriately mark the entry into force in 2020 of the Paris Agreement on Climate Action. She preferred to wait for the outcome of the Global Commission's report and the Director-General's Report to the Conference in 2019 before considering the item on inequality. Her group was in favour of further work on the proposed topics listed in the document. With regard to non-standard forms of employment, the need to allocate resources for the Meeting of Experts agreed in the 2015 recurrent discussion on labour protection should be urgently addressed. The lack of follow-up to decisions taken by the supreme governance organ of the Organization was a concern. A standard-setting item on global supply chains should be included in the Conference agenda soon after 2019. Taking those comments into account, the Workers' group supported the draft decision set out in paragraph 32 of the document.

12. *The Employer spokesperson* said that his group was disappointed with the Office's proposals for the 2019 Conference agenda and disagreed that there was wide support for including the second discussion of violence at work. The 2019 Conference agenda should be more focused on the future of work, with three technical committees focusing on especially important aspects of that subject, namely, the changing nature of work, employment opportunities brought by new technologies and trends in business and at work; skills for the future; and governance of work. The added value of a Conference declaration was doubtful. Rapid changes in the world of work were happening globally – a declaration would be too static a document. The Employers supported the proposal that the Global Commission's report should constitute the substantive input to the plenary and the Director-General's Report serve as a vehicle to transmit it.
13. With regard to the proposals for Conference agendas beyond 2019, the Employers recalled that the Conference agenda did not have to include a standard-setting item; a focus on technical discussions or the follow-up to items from the 2019 Conference would be preferable. A decision on the 2020 Conference could be made later once the 2019 agenda had been established. When a standard-setting item was placed on the Conference agenda, it was important to have an idea of its purpose and to reflect on whether the eventual provisions of an instrument would be ratifiable by member States. If standards were used for making declaratory statements on campaign issues which remained unratified, international labour standards would be undermined. The Employers did not support the proposal for a new standard on environmentally sustainable economies. Guidelines had already been adopted in 2015. Neither did the group support a standard on apprenticeships. Although the Office's work on apprenticeships was appreciated, giving guidance on the different forms of work-based learning was the role of education, not regulation. He supported the inclusion of an item on skills and education on the 2020 Conference agenda, if not selected for the 2019 agenda. The proposal to hold a discussion on inequalities and redistributive policies might have some value but would require a broader approach than that suggested by the Office. The problems leading to unequal opportunities often went well beyond the labour market and could not be addressed without looking at root causes, which differed from country to country. His group preferred to wait for the results of future work before considering the items on individual labour disputes, non-standard forms of employment, decent work in the world of sport and independence and protection in public service. He recalled an earlier proposal from his group to consider the fight against corruption as a topic for Conference discussion.

14. *Speaking on behalf of the Africa group*, a Government representative of Chad said that he agreed with the proposals set out in paragraphs 18 and 19 and supported the draft Conference agenda.
15. *Speaking on behalf of the Asia and Pacific group (ASPAG)*, a Government representative of Australia said she agreed that there should be a formal outcome from the centenary Conference; the draft outcome document should be based on member States' comments on the Global Commission's report and other consultations. The Office should act rapidly to develop more detailed proposals in that regard in order to allow constituents sufficient time for consideration. Her group encouraged the Office to consider showcasing Initiatives other than the Future of Work, which would be the focal point for discussion in 2019. She strongly supported continuing the discussion on violence and harassment at work. The important work and recommendations of the SRM TWG should continue, as set out in the document. Flexibility should be maintained with regard to the remaining agenda slot for the 2020 Conference. Her group supported the draft decision, as amended by the European Union (EU).
16. *Speaking on behalf of the group of Latin America and Caribbean countries (GRULAC)*, a Government representative of Paraguay requested the Office to clarify the next steps towards the centenary Conference, particularly with respect to the outcome document. She expressed the hope that the amendment proposed by the EU would be considered with a view to enabling the Governing Body to offer clear guidance to the Office. With regard to the 2020 Conference, her group supported the proposed discussion of a new standard on apprenticeships. All constituents agreed on the importance of youth employment, as evidenced by their endorsement of the Buenos Aires Declaration on Child Labour, Forced Labour and Youth Employment. Her group proposed that subparagraph (b) of the draft decision should be amended to include the formulation of a standard on apprenticeships.
17. *Speaking on behalf of the group of industrialized market economy countries (IMEC)*, a Government representative of Greece said that her group had previously agreed that the 2019 Conference agenda should be dedicated to the Future of Work Initiative and supported holding the second standard-setting discussion on violence and harassment against women and men in the world of work. IMEC had also previously proposed the establishment of a Committee of the Whole to work on the outcome document. She sought clarification in respect of the negotiation process and how the Director-General's Report would facilitate the adoption of the outcome document. She supported the celebratory dimension of the ILO's centenary, as set out in paragraphs 18 and 22 of the document. Special sessions and debates should be prepared together in order to avoid clashes between events, with a view to encouraging participation by delegates and drawing the attention of a wider public.
18. The outcome document of the Conference, which could be a declaration, should be ambitious and set the future course of the ILO, bringing added value. IMEC requested the Director-General to provide an update on the work of the Global Commission in June 2018 and to present some initial thoughts on the outcome document to the Governing Body at its November session. Interaction with the Commission was essential to the achievement of a Conference outcome and her group looked forward to further opportunities for interaction before the publication of the Commission's final report. However, in view of the short time frame, IMEC urged the Office, as it had done at the previous session of the Governing Body, to provide a specific roadmap leading up to the 2019 Conference and the June session of the Governing Body.
19. It was premature to decide on a standard-setting item beyond 2019. IMEC saw merit in a possible general discussion on apprenticeships in 2021 in advance of possible standard setting. Standard setting on a just transition of the world of work towards environmentally sustainable economies and societies for all would not provide added value. Her group

welcomed retaining flexibility in the 2020 Conference agenda for follow-up items to the centenary session as well as for SRM priorities and, while expressing interest in an item on non-standard forms of employment, considered it premature to take a final position in respect of the four remaining items. IMEC supported the draft decision, as amended by the EU.

20. *Speaking on behalf of the EU and its Member States*, a Government representative of Bulgaria said that the candidate countries the former Yugoslav Republic of Macedonia, Montenegro, Serbia, Albania and the country of the Stabilisation and Association Process and potential candidate Bosnia and Herzegovina aligned themselves with her statement. The EU supported IMEC's statement and concurred that the 2019 Conference should focus on the Future of Work Initiative and include the second standard-setting discussion on violence and harassment against women and men in the world of work. She agreed with the content of paragraph 22 regarding celebrating the centenary, without the addition of a fourth technical committee. The CAS should include a centenary-related component, provided that that did not interfere with its supervisory work; further information from the Office in that regard would be useful.
21. The Conference outcome document should address global trends transforming the world of work such as globalization, technological change, demographic shifts and climate change. A Centenary Declaration based on the objectives and values of the ILO set out in the Declaration of Philadelphia could be a suitable outcome and should guide the ILO in pursuing its mandate for social justice with its constituents. Early preparation was needed. Furthermore, it was important that constituents had opportunities to interact with the Global Commission before the release of its report. She asked how constituents' contributions would be integrated into the consultation process for the report. She requested the Office to organize a discussion, no later than November 2018, on the outcome document and to present a clear time frame on how the consultation process would lead to the outcome document.
22. The proposed item on apprenticeships was a priority as it had been identified by the SRM TWG as a regulatory gap. A discussion on inequalities and the world of work would also be welcome. She noted that the 20th International Conference of Labour Statisticians would take place in October 2018 and would consider non-standard forms of employment, which could be highly relevant to future Conference discussions on that important topic.
23. With regard to the draft decision, the EU supported subparagraphs (a)(i), (b) and (c) but proposed that subparagraph (a)(ii) should be amended and a subparagraph (a)(iii) added, as follows: "(ii) an item related to the Future of Work Initiative with the view to the adoption of an important outcome document, possibly a declaration; and to request the Director-General to further develop the nature and format of that item and to present first ideas regarding the outcome document for further consideration by the Governing Body in November 2018; (iii) an item related to the organization of debates and events connected to the centenary, and to request the Director-General to further develop the nature and format of that item for further consideration by the Governing Body in November 2018."
24. *A Government representative of China* said that he supported the drafting of a concise, focused and powerful outcome document, with ample time for deliberation by constituents, and the establishment of a Committee of the Whole at the 2019 Conference for its discussion. He urged the Office to provide a draft document as early as possible. The Office might consider holding a special consultation session on the outcome document in the first quarter of 2019. With regard to standard-setting items, it was difficult to take a decision in the absence of any additional information since the previous Governing Body session. He expressed the hope that the Office would provide more detailed explanations of those items at future sessions.

25. *A Government representative of India* said that she supported subparagraph (c) of the draft decision regarding the approval of the proposed amendments to the Code of the Maritime Labour Convention, 2006, and subparagraph (a)(i) on the inclusion of a standard-setting item on violence and harassment against women and men in the world of work. She concurred that the draft outcome document should be the subject of consultations before the Conference. In addition, she supported the contents of paragraph 22 and agreed that the CAS should include a centenary-related component in its work. Apprenticeships should be included as an agenda item at the 2020 Conference, with particular focus on informal apprenticeships for women. Inequalities in the world of work and decent work in the world of sport could also be discussed at that Conference; the inclusion of a gender perspective in that discussion would promote gender equality, wage equality and women's welfare in the labour market.
26. *A Government representative of Japan* said that it seemed reasonable and appropriate for the centenary session of the Conference in 2019 to discuss both the outcome document and the Centenary Initiatives, separately. Inequalities and the world of work was a good option for the Conference agenda beyond 2019, since that issue was relevant to the ILO mandate and common to many member States. While the theme of apprenticeships was also valuable, it would be more appropriate to address it through a general discussion, in view of the diversity of modalities and prevalence of apprenticeships in member States.
27. *A Government representative of France* said that the centenary session would be an opportunity for the ILO to reaffirm its mandate and methods. In order to do so, the Organization should be guided by the Declaration of Philadelphia, particularly on aspects relating to the future of work. A new declaration, combining the fundamental principles of the Declaration of Philadelphia with major changes in the world of work, should be adopted at the centenary session. A concise and powerful text would strengthen the role of the Organization in global governance and reaffirm the commitment of its constituents to multilateralism.
28. *A Government representative of Cuba* requested the Office to clarify the concept behind the Committee of the Whole so that constituents could better understand it. The programme for the debates and events connected to the centenary session should be distributed well in advance.
29. *A Government representative of Switzerland* said that the centenary session must result in a formal and ambitious outcome document. The document must reflect changes in the world of work and enhance previous declarations adopted by the ILO. It must also be forward-looking and guide all future ILO activities. He therefore supported the establishment of a Committee of the Whole. The participation of high-level invitees would raise the profile of the event. His Government supported the proposal to focus the centenary session on a single committee and facilitate the organization of targeted debates on the future of work. Constituents should extend their discussions to include other institutions and groups, particularly young people. The Conference agenda beyond 2019 should address inequalities in the world of work but also continue discussion on the future of work. With regard to subparagraph (c) of the draft decision, there was very little time for preparations between the meeting of the Special Tripartite Committee in April 2018 and the deadline for enrolling in the 107th Session of the Conference. It would be preferable for the item to be included on the agenda for the session in 2020. The Office should consider consultations between Governing Body sessions to advance the Centenary Initiatives and make the necessary resources available in that regard. The Conference agenda beyond 2019 should be based on the conclusions of the centenary session.

30. *The Worker spokesperson* said that her group was in favour of the amendment proposed by the EU. However, it would be more appropriate to have discussions in March 2019 than in November 2018. She noted some incoherence with previous decisions of the Governing Body. For example, all necessary actions on apprenticeships had already been agreed in a recommendation of the SRM TWG of 2016, which had identified a regulatory gap, and in a Governing Body decision, which requested the Office to follow up on that gap.² Although the gap still needed to be addressed, it would be better done in a general discussion. It was also incoherent to prioritize the item but then fail to address it promptly. Also, many governments viewed apprenticeships as a current issue, not only one related to the future of work.
31. *The Employer spokesperson* said that there was no incoherence in respect of apprenticeships. The SRM TWG had identified a gap and the Governing Body must next address that gap. He was positive about the innovative formats proposed by the EU in their amendments to the draft decision, and agreed on the need to take advantage of momentum. However, he sought clarification on clause (a)(iii) on the organization of debates and events connected to the centenary. If they were related solely to celebrations, the Employers' group would not agree to them. It would, however, accept debates and events on the future of the ILO. His group was also against the adoption of a declaration. A mere formal declaration would not serve the purpose of the ILO providing concrete, practical conclusions and recommendations. It was therefore preferable to keep the original clause (a)(ii).
32. *Speaking on behalf of the EU and its Member States*, the Government representative of Bulgaria said that November 2018 had been chosen because preparations should start as soon as possible. The discussion would then continue at the following Governing Body session. Clause (a)(iii) had been taken from the original decision, but the work had been divided in order to give sufficient prominence to the Future of Work Initiative.
33. *The Worker spokesperson* said that she would not agree to centenary celebrations either. The events must be based on issues of content. The Office should clarify the discussion to be had on apprenticeships since, as mentioned previously, it had already been covered by the SRM TWG and the Governing Body.
34. *A representative of the Director-General* (Deputy Director-General for Management and Reform (DDG/MR)) said that the Office had understood the amendment as a proposal to split clause (ii) into two clauses: one on the future of work component and another on other Centenary Initiatives. However, clause (iii) would be clear if it read "an item related to the centenary" instead of "an item related to the organization of debates and events". There was a reasonable level of support for a second discussion on violence and harassment in the world of work in 2019. There was also support to include a standard-setting item on apprenticeships on the agenda. If the Governing Body wished to include an item in the 2020 Conference agenda, that decision would have to be made at the present session in order for the regular standard-setting procedures to produce a report in time for the 2020 Conference. The Office had noted the questions on the future of work component, other arrangements for the centenary session and whether to take decisions in November 2018 or March 2019. However, its intention was to obtain general guidance at the present session and make more formal proposals in November 2018.
35. *A representative of the Director-General* (Director, International Labour Standards Department (NORMES)) confirmed that the SRM TWG had identified a gap in protection and its report had been endorsed by the Governing Body. At the November 2017 session, the possibility of a standard-setting item had been discussed but there had been no consensus.

² See [GB.328/PV](#), para. 581(h).

The issue had therefore remained in the document, which is now eliciting clearer views on the proposal.

36. *The Director-General* said that the will of the Governing Body was to focus the centenary session very strongly on the Future of Work Initiative, with space for other Centenary Initiatives. Despite some doubts expressed at the outset, the Governing Body also seemed to have reached unanimity on including a second discussion on violence and harassment at work.
37. He took note of the frustrations that the Office had not set out the roadmap for the 2019 session more quickly. Although he understood those frustrations, it was vital for the Governing Body to achieve consensus on its goals and methods before that roadmap was set out. For example, there was not yet consensus on whether to adopt an important, historic and ambitious outcome document, possibly a declaration. The amendments proposed by the EU, if adopted, would provide guidance in that regard.
38. There seemed to be some confusion regarding clause (a)(iii). His understanding was that it represented a relatively limited modification, proposed by the EU, to complement the modified clause (a)(ii). That clause (a)(iii) was, in turn, an attempt to put into decision form the ideas for the third slot at the Conference set out in paragraph 22.
39. Moving forward, it would firstly be important to establish how a draft outcome document that had already received the serious consideration of tripartite constituents could be presented to the Conference. A number of speakers had noted that a good option would be to ask the Office to produce such a document, be it a declaration or something else, for consultations in early 2019. The draft could usefully be informed by the report of the Global Commission on the Future of Work, to be published at the end of 2018 or the beginning of 2019, and by preliminary consultations that constituents could begin immediately. The Office could then seek further guidance from the Governing Body at an interim point, probably the November 2018 session.
40. Other actors in the international system had indicated that they were looking to the ILO to provide leadership on the future of work. He therefore urged the Governing Body, as it moved towards adopting the draft decision, to maintain a high level of ambition. The Office would, of course, play its role. It was essential that the Organization met its responsibilities and optimized its opportunities.
41. *The Worker spokesperson* invited the Employer spokesperson to clarify whether his group only objected to the words “possibly a declaration”, or whether it also did not support the idea of an outcome document.
42. *The Employer spokesperson* replied that his group only had a problem with the possible declaration. He would need more information on exactly what was envisaged before deciding on a declaration. However, he could accept clause (a)(ii) if the reference to the declaration were deleted. That said, his strongest objection was to clause (a)(iii). He was not prepared to agree to a vague structure that did not detail any substance.
43. *The Worker spokesperson* expressed appreciation for the Employers’ group’s efforts to basically accept clause (a)(ii), which meant that there was tripartite consensus on a common ambition. She hoped that the Director-General would come up with a very interesting proposal that the Governing Body could further discuss. She suggested that the Director-General might wish to clarify the process that he would follow with respect to clause (a)(iii) were the draft decision to be adopted.

44. *Speaking on behalf of the EU and its Member States*, a Government representative of Bulgaria said that the Director-General had already outlined the substance of clause (a)(iii), which contained nothing new and had been added to the draft decision as a separate clause to provide extra clarity.
45. *The Chairperson* said that the phrase, “an important outcome document, possibly a declaration” in clause (a)(ii) did not oblige the Governing Body to decide in favour of a declaration, but merely gave it that possibility. Of course, the contents would have to be clarified, but they would be revisited in November 2018. If the draft decision were adopted, the Office would have a clear objective.
46. *The representative of the Director-General (DDG/MR)* said that, in view of the assessment made earlier regarding the support for including a standard-setting item on apprenticeships, he proposed amending subparagraph (b) of the draft decision to read: “place a standard-setting item on apprenticeships on the agenda of the 109th Session (2020) of the Conference and request the Office to take note of the other guidance provided on setting the agenda beyond 2019”.
47. *The Employer spokesperson* said that “Centenary Initiatives”, referred to in paragraph 22, were not the same thing as the future of work. He was unclear about what clause (a)(iii) currently envisaged. He could work with clauses (a)(ii) and (a)(iii), perhaps if they were condensed into one clause. However, he did not want a reference to Centenary Initiatives. Likewise, while he would welcome a discussion on apprenticeships, he did not agree to the inclusion of a reference to a standard-setting discussion in the draft decision.
48. *The Worker spokesperson* asked the Chairperson whether the Governing Body was still seeking tripartite agreement. She had explored the possibility of reaching tripartite agreement and did not believe that it would be forthcoming. She inquired whether each paragraph would be renegotiated in order to reach tripartite consensus, or whether there would be a stage at which the text would reflect the will of a clear majority of the Governing Body.
49. *The Chairperson* replied that he saw a clear majority in favour of the text as it stood. However, he was seeking tripartite consensus to the extent possible because, ideally, the whole ILO should be behind the same idea.
50. *The Worker spokesperson* said that she was in favour of seeking tripartite agreement, if possible, on the subject of the Centenary Initiatives. However, she was not willing to restart discussions on other matters, particularly clause (a)(iii), if a clear majority of the Governing Body had already reached agreement.
51. *The Employer spokesperson* said that the Governing Body could not tolerate a situation in which groups pushed for majority agreement when an outcome suited them and accused others of not wanting tripartite consensus when an outcome did not suit them. That was dangerous ground. Consistency was required, particularly in the context of the discussion that had been held on UN reform, and given the pride that the Governing Body took in basing its decisions on tripartite consensus.
52. *Speaking on behalf of IMEC*, a Government representative of Canada said that it was not clear that the Governing Body was moving towards a consensus for a standard-setting discussion on apprenticeships. He recalled that his group had indicated that it saw merit in a possible discussion, given the gap that had been identified by the SRM, but that it had a preference for holding a general discussion on the issue first.

53. *Speaking on behalf of the EU and its Member States*, a Government representative of Bulgaria said that she had a new suggestion for subparagraph (b): it would be better to remove the reference to a specific time frame for the item on apprenticeships. With regard to clauses (a)(ii) and (a)(iii), it had been her group's explicit wish to separate the preparation for the Future of Work Initiative from other Centenary Initiatives in order to give it more prominence and visibility.
54. *The Chairperson* said that some governments had expressed a preference for an outcome document, and potentially a declaration. The reference to a declaration should therefore remain in the text of the draft decision for the time being and, given the lack of clarity surrounding the discussion on subparagraph (b), discussion on that matter should be postponed until November 2018 to allow for further consideration. He called for consensus in that regard.
55. *A Government representative of Brazil* said that his Government was ready to follow the suggestion provided there was consensus on the matter. He asked whether the decision to postpone discussion on subparagraph (b) would preclude some options proposed in the paper, such as the standard-setting instrument on apprenticeships, a proposal supported by GRULAC.
56. *The representative of the Director-General (DDG/MR)* clarified that the reference in the draft decision to the setting of the Conference agenda beyond 2019 would only preclude the inclusion of a standard-setting item on apprenticeships on the 109th Session (2020) agenda in particular; the issue could therefore potentially be included in 2021 or later, even if the draft decision did not receive support by constituents at that time.
57. *A Government representative of Brazil* requested clarification on the reference in the document to the exceptional possibility of reduced intervals for sending documents in advance of the Conference. His Government would be ready to support the draft decision, but was concerned that the option preferred by GRULAC would be ruled out.
58. *The representative of the Director-General (Director, NORMES)* said that the Governing Body could decide exceptionally to reduce those intervals, but there would consequently be less time for the Office to prepare documents and for constituents to study them.

Decision

59. *The Governing Body decided:*

- (a) *to place on the agenda of the 108th Session of the Conference (2019), beyond the standing items (Reports of the Chairperson of the Governing Body and of the Director-General, programme and budget and other questions and information and reports on the application of Conventions and Recommendations):*
- (i) *a standard-setting item (second discussion) on violence and harassment against women and men in the world of work;*
- (ii) *an item related to the Future of Work Initiative with a view to the adoption of an important outcome document, possibly a declaration, and to request the Director-General to further develop the nature and format of the item and to present first ideas regarding the outcome document for further consideration by the Governing Body in November 2018; and*

(iii) an item related to the organization of debates and events connected to the centenary, and to request the Director-General to further develop the nature and format of this item for further consideration by the Governing Body in November 2018;

(b) to request the Office to take note of the guidance provided in relation to the setting of the Conference agenda beyond 2019; and

(c) to provisionally place an item on the approval of the proposed amendments to the Code of the Maritime Labour Convention, 2006, on the agenda of the 107th Session (2018) of the Conference, subject to the submission of any amendments adopted by the Special Tripartite Committee in April 2018.

(GB.332/INS/2, paragraph 32, as amended by the Governing Body.)

60. *The Employer spokesperson* said that his group did not agree with the decision, in particular the amendments proposed by the EU, and expressed his discontent that his group had been dragged along and that the decision had not received tripartite agreement before adoption. He had been under the impression that his group was agreeing to the amendment to subparagraph (b), and not to the adoption of the draft decision as a whole.
61. *The Chairperson* said that the reference to the setting of the Conference agenda beyond 2019 had initially been deleted for the purpose of achieving consensus on the draft decision. The outcome document would not necessarily take the form of a declaration.
62. *The Worker spokesperson* expressed her displeasure at the accusation that she was not acting in the spirit of tripartism, a concept that required constituents to make proposals and seek compromise rather than simply expressing their disagreement. Her group was ready to accept the decision, and she expressed her hope that the matter would be discussed further in future. The disagreement in respect of apprenticeships as a standard-setting item was regrettable since many constituents had supported its inclusion in the draft decision.
63. *The representative of the Director-General (DDG/MR)* said that subparagraph (b) of the draft decision should be amended to read: “request the Office to take note of the guidance provided in relation to the setting of the Conference agenda beyond 2019 both as regards the strategic approach and the subjects under consideration, in particular as to the 109th Session (2020); and”.
64. *The Chairperson* said that he had understood that the Government group and Workers’ group had agreed to the present text, which included the amendments proposed by the EU and the Office, and that there had been majority agreement on the outcome document and a possible declaration. The discussion would be postponed to the next session of the Governing Body.
65. *The Employer spokesperson* asked why the focus had been placed on the Centenary Initiatives rather than the future of work.
66. *The Director-General* said that the Office was dividing the focus on the future of work from the attention given to other Centenary Initiatives. Constituents had consistently said that other Centenary Initiatives required some attention at the centenary session of the Conference. The Office could not provide precision on the outcome document or other details of the Conference since they had not yet been finalized and would be shaped through future consultations and decisions made in the scope of the procedural roadmap.

67. *The Employer spokesperson* recalled that his group had proposed topics for the centenary session and that, despite discussion in meetings of the Global Commission, the constituents had not agreed which topics should receive attention. He expressed his preference for a more focused proposal on a possible declaration. He had initially understood that the Conference agenda would feature three items on the future of work and consequently asked why only one item in the draft decision referred to the future of work.
68. *The Director-General* recalled that the Employers' group had proposed three technical agenda items on the changing nature of work, skills and governance, and had initially expressed a preference for no outcome document to be produced. Since the centenary Conference would therefore be arranged in a similar way to previous Conferences, he questioned whether that agenda would be a sufficiently ambitious way to mark the Office's centenary. The Conference should ideally provide a space to adopt an historic action-oriented outcome, possibly a declaration, and to hold a discussion on violence and harassment at work, a proposal that the Employers' group had not accepted at first. The third slot on the agenda could then be used to discuss the other Centenary Initiatives.
69. *The Worker spokesperson* expressed her appreciation of the Director-General's explanation. It would be important to move forward on the basis of a majority agreement.
70. *The Employer spokesperson* stressed that his group was not opposed to having an outcome document but rather to the lack of clarity over whether the document would take the form of a declaration and, if so, what the content might be. It was also opposed to having to reduce topics and switch focus to the other Centenary Initiatives. However, his group would accept the majority decision.
71. *The Chairperson* said that the Governing Body agreed to take note of the Employers' concerns and would return to the matter at the November 2018 session of the Governing Body.

Third item on the agenda

Review of annual reports under the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work ([GB.332/INS/3](#))

72. *The Employer spokesperson* noted that 2018 marked the 20th anniversary of the ILO Declaration on Fundamental Principles and Rights at Work, adopted in 1998 (the 1998 Declaration). The Office's report demonstrated that even countries that had not ratified all or any of the core ILO Conventions were taking action to respect, promote and realize the fundamental principles, in line with the 1998 Declaration, which was what ILO membership was about. The anniversary of the 1998 Declaration should galvanize concerted action by the Office, member States, constituents and other stakeholders to respect, promote and realize the fundamental principles and rights at work in line with other initiatives, such as the 2030 Agenda, and the Office should seize the opportunity it offered to renew its commitment to the 1998 Declaration. In the light of the importance of the "50 for Freedom" campaign to eliminate forced labour, the Employers' group was pleased to support the establishment of the ILO Global Business Network on Forced Labour and Human Trafficking. He commended the Office's efforts to achieve 100 per cent reporting. Reporting represented a commitment by non-ratifying member States to realize the fundamental principles and rights at work, and was evidence of the usefulness and visibility of the 1998 Declaration. He thanked the Office for having introduced the e-questionnaire tool on a

pilot basis with a view to facilitating reporting, noted with satisfaction that 36 member States had used it, despite a few glitches, and encouraged more States to use it.

73. With respect to the Office's focus on ratification of the fundamental Conventions, he noted that ratification was not the only way to demonstrate commitment to the ILO's core values. Each State's legal system and social, economic and political circumstances should be considered and the different ways that States respected the 1998 Declaration through policy initiatives and other commitments should be noted. The main objective was not ratification, but rather the effective implementation of the fundamental principles and rights at work covered in the core Conventions. That distinction could be lost in the rush to judge countries on their ratification record, and point (d) of the draft decision in paragraph 152 of the report provided an example of that. Member States could meet – or fail to meet – their responsibilities under the core Conventions regardless of ratification status. When considering ratification of a Convention, member States should first ensure that it could be implemented at the national level. Ratification and implementation of a fundamental Convention must be the result of extensive tripartite consultation. Those points were not fully reflected in the Office's report. He suggested that the end of point (d) of the draft decision should be amended to read: "... rights at work, such as through universal ratification and/or other action and practical policy efforts, and in particular, to combat the global scourge of forced labour including trafficking in persons." Any assessment of State action to implement the fundamental principles and rights at work should be based on the States' legal and operating context and other policy efforts, rather than limited to the number of ratifications.
74. With regard to freedom of association and the effective recognition of the right to collective bargaining, slow progress in respect of the ratification of Conventions Nos 87 and 98 demonstrated that it could take time to address domestic legal and practical barriers and overcome historical, cultural and religious attitudes towards rights. Nonetheless, the report indicated movement in the right direction. It should be noted that the right to freedom of association also applied to employers.
75. It was encouraging that many States had specific policies and plans of action to help end forced and compulsory labour and human trafficking, and that many had introduced mechanisms to collect data on those issues. The Employers' group urged the Office to respond to member States' many requests for technical assistance to help combat trafficking in persons. Governments should ensure that, at the national level, the social partners were engaged in all measures concerning those fundamental rights.
76. It was important to note the challenges faced by governments in the abolition of child labour, and applaud their openness in highlighting those challenges. He urged the Office to respond to the multiple requests for technical assistance to help put an end to discrimination in respect of employment and occupation.
77. The Employers' group welcomed the information provided by member States and the social partners on efforts and challenges to addressing the fundamental principles and rights at work. The Office should continue to provide technical support and assistance to States, where requested, and help to build the capacity and strengthen the role of the social partners. Developing the institutional capacity of ILO constituents to support the realization of the fundamental principles and rights at work was vital; the Bureau for Employers' Activities (ACT/EMP) and Bureau for Workers' Activities (ACTRAV) must be sufficiently funded and involved in the Office's capacity-building work.
78. *The Worker spokesperson* said that the marked fall in the number of reports received in 2017, despite follow-up by the Office, was a cause of concern that required attention, particularly since it was the second year in which there had been a noticeable drop in reporting. The

social partners could help remedy the issue at the national level. She encouraged countries that had not used the e-questionnaire tool to do so in the future. Given member States' mixed feedback on the tool, the Office should prioritize further consideration of how to encourage and facilitate reporting, by electronic or other methods.

- 79.** She congratulated those States that had ratified fundamental Conventions during the reporting cycle, noting that Canada and Suriname had thus ratified all the fundamental Conventions. She also noted that, as at January 2018, 22 member States had ratified the Protocol of 2014 to the Forced Labour Convention, 1930. She recalled that targets towards universal ratification had been set in the plan of action for 2017–23, approved by the Governing Body in November 2017, to give effect to the conclusions concerning the second recurrent discussion on fundamental principles and rights at work adopted by the International Labour Conference in June 2017. In that respect, she urged those member States that had taken other measures to guarantee the fundamental principles and rights also to ratify the Conventions.
- 80.** She expressed concern that, even though progress had been made towards ratification of Conventions Nos 87 and 98, approximately half of the world's population lived in countries that had not ratified one or both of those Conventions. It was essential to identify any barriers to the ratification of those instruments, so that national social dialogue could contribute to developing a plan to overcome them. Further efforts were needed to promote the ratification of the two instruments, the implementation of which was essential in order to achieve the Decent Work Agenda and establish the institutions necessary to ensure that other fundamental standards were effectively implemented.
- 81.** She expressed regret that, although ratifications of the Forced Labour Convention, 1930 (No. 29), and the Abolition of Forced Labour Convention, 1957 (No. 105), were higher than those of the other fundamental Conventions, no new ratifications of those instruments had been registered and that only four member States had reported on them in the reporting cycle. She welcomed the Government of China's willingness to consider ratifying those instruments; and noted the information on prevention and enforcement efforts and sanctions established in several member States.
- 82.** The number of ratifications of the Protocol had doubled, but it was a concern that no ratifications had been registered in the Arab States and in the Asia and the Pacific region; moreover, the goal of 50 ratifications by the end of 2018 remained a long way off. However, she welcomed the progress made by some States, particularly given that the elimination of all forms of forced labour was linked to poverty eradication.
- 83.** She commended progress towards the ratification of the Minimum Age Convention, 1973 (No. 138), and the Worst Forms of Child Labour Convention, 1999 (No. 182), in several countries. However, she expressed concern that, as with other Conventions, the rate of ratification was low in the Asia and the Pacific region. Concerning ratification of the Equal Remuneration Convention, 1951 (No. 100), and the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), she took note of the significant number of requests for technical assistance, including in the areas of training, legal reform, capacity building and establishing or strengthening specialized institutional machinery.
- 84.** She expressed regret that the figures indicated a lower rate of reporting than usual, which she hoped was temporary. Reports received under the annual review for 2017 had been rich in terms of content, which she hoped reflected member States' commitment to implementing the fundamental principles and rights at work and to ratifying the fundamental Conventions and the Protocol. Lack of social dialogue had been identified as a challenge to making that a reality, and the Office should provide technical assistance to overcome that barrier. In conclusion, she supported the draft decision contained in paragraph 152 of the document,

without the proposed amendments, as it reflected the agreement reached during the 106th Session of the International Labour Conference.

- 85.** *Speaking on behalf of the Africa group*, a Government representative of Chad noted the number of countries that had ratified, or reaffirmed their intention to ratify, one or more of the fundamental Conventions. Responding to the requests received for technical assistance would accelerate the rate of ratification, with a view to reaching universal ratification. Overcoming barriers, strengthening the capacities of the tripartite constituents and promoting social dialogue would lead to better implementation of the fundamental principles and rights at work. Technical assistance in Africa had led to a clearer understanding of those fundamental rights and principles, had strengthened tripartite dialogue and had led to legislative reform. Several States had adopted legislation to protect workers from the worst forms of labour, which must be eradicated. Awareness of the worst forms of labour should be raised among workers, employers and labour inspectors. The online reporting tool was a positive step, but some States had experienced technical difficulties. He supported the draft decision.
- 86.** *Speaking on behalf of the EU and its Member States*, a Government representative of Bulgaria said that the following countries aligned themselves with the statement: Montenegro, Albania, Bosnia and Herzegovina and Norway. She expressed concern that 126 ratifications covering 45 member States were still required for the goal of universal ratification to be attained, and she encouraged the ILO to implement the universal ratification campaign. Universal ratification would represent an important contribution to the achievement of several of the Sustainable Development Goals (SDGs). Additional efforts in respect of ratification of the Protocol of 2014 to the Forced Labour Convention, 1930, would be required if the “50 for Freedom” target was to be reached by the end of 2018. All EU Member States had ratified the eight fundamental Conventions and the Europe region was the first to have attained universal ratification. Just over half of the ratifications of the Protocol had been made by EU Member States. She encouraged other regions to increase ratification efforts.
- 87.** Lack of social dialogue was a challenge to universal ratification. She welcomed the ILO’s decision as part of the plan of action for 2017–23 to build capacity in governments and among the social partners, with particular regard to tackling obstacles to freedom of association. She noted that many requests for technical assistance had been received, and said that the EU and its Member States would continue to support the efforts of the Office to respond to those requests. The EU’s experience in that regard could be a useful resource. She welcomed the user-friendly e-questionnaire tool which could facilitate reporting and diminish the administrative burden on ratifying States. She called on all ILO Members to ratify all of the fundamental Conventions and emphasized the particular responsibility of members of the Governing Body and other supervisory bodies in that regard. She supported the original draft decision, without the proposed amendments.
- 88.** *A Government representative of India* said that, having ratified six of the fundamental Conventions, the Indian Government was working towards ratification of the other two, namely Conventions Nos 87 and 98, in consultation with all stakeholders. However, the rights envisaged under those Conventions were already guaranteed by the Constitution. Respect for the fundamental rights and principles at work should go beyond the ratification of Conventions, and should be implemented at the ground level. She encouraged the ILO to conduct country-specific promotional activities in order to achieve universal ratification of the fundamental Conventions in a flexible time frame. As the ILO approached the 20th anniversary of the adoption of the 1998 Declaration, the Office should strengthen the universal ratification campaign by establishing ambitious, clear and achievable targets. She noted that the rate of reporting and the participation by employers’ and workers’

organizations had fallen, and called for capacity building among the social partners to remedy that. She supported subparagraphs (b), (c) and (d) of the draft decision.

89. *A representative of the Director-General* (Director, NORMES) said that in 2017 the Office had supported 60 member States in their efforts to ratify and implement the fundamental Conventions, including through tripartite consultations. It would continue to step up its technical assistance and continue to involve ACT/EMP and ACTRAV in capacity-building exercises. The fall in the reporting rate was partly due to the additional reporting obligation under the Protocol of 2014 to the Forced Labour Convention, 1930, which was highly detailed and had required some member States to start reporting again. She thanked the European Commission for its ongoing financial contribution to the Office's efforts to support member States with reporting; those efforts would be maintained. Work would also be done to resolve the issues with the online reporting system; she asked the governments in turn to provide the correct email address to facilitate the process. Lastly, she confirmed that the Office intended to use the 20th anniversary of the 1998 Declaration as an opportunity to boost its campaign for universal ratification, alongside the "50 for Freedom" campaign.
90. *Speaking on behalf of IMEC*, a Government representative of Canada, speaking on a point of order, urged members of the Governing Body to submit amendments before the 24-hour deadline to give all members time to consider them in their groups. Given the short notice in the present case, IMEC could not agree to the amendment.
91. *The Employer spokesperson* expressed regret that the deadline had been overlooked. His group had wanted to place emphasis on the importance of achieving effective implementation in addition to universal ratification, with resources to build the capacity of member States.

Decision

92. *The Governing Body:*

- (a) took note of the information presented under the Annual Review of the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work for the period from January 2017 to 31 December 2017;*
- (b) invited the Director-General to further take into account its guidance on key issues and priorities, including as to the interest in the further elaboration of reporting tools with a view to facilitating online reporting and data analysis;*
- (c) requested the Office to address simplified questionnaires to the constituents regarding the Protocol of 2014 to the Forced Labour Convention, 1930; and*
- (d) reiterated its support for the mobilization of resources with regard to further assisting member States in their efforts to respect, promote and realize fundamental principles and rights at work, through universal ratification and action and, in particular, to combat the global scourge of forced labour including trafficking in persons.*

(GB.332/INS/3, paragraph 152.)

Fourth item on the agenda

Report of the Tenth European Regional Meeting

(Istanbul, 2–5 October 2017)

([GB.332/INS/4](#))

93. *The consideration of this item and the related decision were deferred to a later session of the Governing Body.*

Fifth item on the agenda

The Standards Initiative: Implementing the workplan for strengthening the supervisory system – Progress report

([GB.332/INS/5\(Rev.\)](#))

94. *The Chairperson* suggested that the discussion should start with a round of general observations on the progress report, followed by comments on the individual proposals, grouped into three prioritized actions (article 24 procedure; regular reporting system; and article 19 procedure), and on a further set of three actions on which guidance was sought. The draft decision took into account the guidance provided by the Governing Body at its session in November 2017 and also at the consultations held in January 2018.
95. *The Employer spokesperson*, after outlining the significant progress that had been made in the discussions on the reform of the Standards Initiative since the submission of a Joint Statement by the Workers' and Employers' groups in February 2015, recalled that at the November 2017 session of the Governing Body consensus had been reached on several elements. The progress report provided finer details that should facilitate agreement on the outstanding elements. The objective of strengthening the supervisory system was to develop a simpler, more transparent, more user-friendly and more effective system and to restore tripartite governance and ownership.
96. *The Worker spokesperson* said that she welcomed the commitment that had been shown by all groups to achieving consensus on the item. The discussions at the previous Governing Body session had not addressed all outstanding concerns, however, and it was her group's intention to secure agreement from all sides at the current session in order to make progress. The work, patience and commitment of the Office in respect of the item, and the consultations held in January 2018, were appreciated. The efforts being made had real implications and aimed at rendering the supervisory system fit for purpose for the twenty-first century.
97. *Speaking on behalf of the Government group*, a Government representative of the Republic of Korea thanked the Office for its work on the item and reiterated his group's strong commitment to strengthening the ILO supervisory system. The elements of the system should be characterized by transparency, integrity and complementarity. His group supported the suggestion to postpone the review of the implementation of the workplan in the context of the broad review of the Standards Initiative to the 334th Session.
98. *Speaking on behalf of the Africa group*, a Government representative of Namibia said that her group welcomed the consultative approach taken by the Office and supported the workplan for strengthening the supervisory system, which would improve the core work of

the ILO by simplifying procedures, increasing transparency and facilitating monitoring activities. She requested that her group's proposals should be given full consideration and hoped that consensus would be reached in the forthcoming discussions at the current session and at the next session of the Governing Body.

99. *Speaking on behalf of ASPAG*, a Government representative of China said that it was crucial to make progress on the workplan for strengthening the supervisory system, which had direct implications for all ILO constituents and was part of the Centenary Initiative, as there were related issues to be discussed in addition to those set out in the document. All constituents should cooperate with a view to achieving consensus, documents should be clear and concise to assist discussions, and informal consultations should be structured to guarantee progress.
100. *Speaking on behalf of GRULAC*, a Government representative of Paraguay urged the Office to continue to hold informal tripartite preparatory consultations prior to the Governing Body meetings. Future consultations must be broad and inclusive, involving all stakeholders in the process of strengthening the supervisory system in a constantly changing world of work. His group was committed to that process, as the supervisory system was a cornerstone of the Organization that must be available to all countries. The reform of the supervisory system should be comprehensive and the interplay between the procedures should be clear to prevent duplication of work. Good practices should be exchanged and disseminated, and replies should be adjusted to the seriousness of the case to ensure they were fair, proportionate and effective.
101. *Speaking on behalf of IMEC*, a Government representative of the United States said that IMEC aligned itself with the Government group's statement. IMEC was pleased with the level of detail in the document and welcomed the inclusion of much of its input from recent consultations. IMEC had supported the revised draft decision put forward by the Office following discussion of the item in November 2017 and had willingly participated in the tripartite consultations on the issue in January 2017. Such consultations contributed to a better understanding of the particular concerns of each group. She hoped that the Governing Body was in a position to approve the next steps, as outlined in the document. IMEC welcomed the restructuring of the lengthy and complex material into three prioritized actions in the document.
102. *Speaking on behalf of the Association of Southeast Asian Nations (ASEAN)*, a Government representative of Thailand said that his group aligned itself with the statement by ASPAG and was committed to cooperating with constituents and the Office to strengthen ILO labour standards.
103. *A Government representative of France*, speaking also on behalf of Italy and Spain, said that in order to successfully implement the workplan and strengthen the supervisory system, it was essential for constituents to continue discussions and arrive at a consensus. She welcomed the proposals related to strengthening the supervisory system in respect of non-ratified Conventions, and agreed that discussion by the Governing Body and the CAS of reports on such Conventions would allow constituents to better identify obstacles that prevented or slowed down the ratification process. She welcomed the proposals that would give priority to the participation in the supervisory bodies of member States that had ratified the eight fundamental Conventions. Legal certainty was essential for the ILO to safeguard its international role. Any new supervisory body envisaged to enhance legal certainty should be light and ad hoc. The Governments of France, Italy and Spain supported the proposal to hold informal tripartite consultations on the elements and conditions necessary for the operation of an independent body under article 37(2) of the Constitution.

- 104.** *A Government representative of Switzerland* expressed support for the statement made by the representative of France. It was important to consider the standards system as a whole. There had been many observations on special supervisory procedures, but no serious reflection on the relationship between special procedures and the regular supervisory process. The ability to improve the system was likely to be found in that sphere of interaction. She encouraged the social partners to continue to strengthen their dialogue, and looked forward to the outcome of their discussions.
- 105.** *The Chairperson* invited the members of the Governing Body to consider the representations procedure under article 24 of the Constitution and paragraph 72(1) and (4).
- 106.** *The Employer spokesperson*, noting the suggestion in the document that the temporary suspension of the article 24 procedure should be subject to the agreement of the complainant and the government concerned, said that his group would have preferred a more far-reaching arrangement to ensure that the ILO's limited supervisory system resources were used primarily in cases where there was a clear need. The Employers were nevertheless willing to accept that proposal in view of the new proposed electronic form for the submission of a representation set out in Appendix III. He suggested that in question 6 of the form the words "would wish" should be replaced by "would have any objections". His group trusted that questions 5 and 6 of the form would encourage the use of national remedies before recourse to an article 24 procedure was sought. Use of the electronic form should thus be strongly encouraged as a critical part of the process. When there were several article 24 representations at the same time, priority should be given to representations for which national remedies were not available, were not available within a reasonable time, or had already been exhausted. His group agreed that arrangements to allow for a temporary suspension of the examination of the merits of a representation by the ad hoc body should be reviewed by the Governing Body after a two-year trial period. The Office was encouraged to continue to assist member States upon request and where appropriate to establish national remedies.
- 107.** The arguments of the Employers' group to end the automatic referral of article 24 representations concerning Conventions on freedom of association and collective bargaining to the Committee on Freedom of Association (CFA) had still not been adequately considered. Such representations had to be examined by an ad hoc committee set up in a similar way as for other article 24 representations, and not only be examined by the CFA. The expertise of CFA members could be utilized through their participation in ad hoc tripartite committees. Recalling that article 3(2) of the Standing Orders concerning the procedure for the examination of representations under articles 24 and 25 of the Constitution of the International Labour Organisation afforded the Governing Body the discretion to refer such representations to the CFA, he noted that this was the exception, rather than the rule. A better explanation of the differences between article 24 and CFA procedures would allow constituents to be better informed in choosing between the two procedures. Those choices had to be fully accepted: if an article 24 representation was submitted, it would contradict the complainant's will to then refer it to the CFA. Should the Governing Body decide to refer the representation to the CFA, an ad hoc subcommittee should be established to examine the merits of the representation dealing with ratified Conventions in a separate meeting, to ensure access to all relevant details of the representation, including its content, legislation and any additional information. The ad hoc subcommittee should have ample time to examine the case, including during Governing Body sessions.
- 108.** With regard to paragraph 68, he stressed the need for clarification of the distinct role of the CFA, which had no constitutional mandate to supervise ratified Conventions. Unless a proper clarification of the role and mandate of the CFA was considered by the Governing Body, his group did not support the presentation of a report of activities by the CFA to the CAS starting in June 2018.

- 109.** With regard to the transparency of the representation procedure, the Employers agreed that the Governing Body should be kept informed of the status of pending representations and follow-up to representations already examined.
- 110.** Another area for improvement was the lack of sufficient information and time Governing Body members had before adopting the recommendations of ad hoc committees in private sessions. In order to maintain transparency, adequate time was required to consider the documents, which were often placed in members' pigeonholes at the last minute. His group proposed that clear language be used in the draft decision to recall the rules for the presentation of documents by the Office 15 days before the opening of each session.
- 111.** Turning to the integrity of the procedure referred to in paragraph 16, his group did not consider it necessary to insert additional wording in the Introductory Note to the Standing Orders on the representation procedure. Article 3(1) of the Standing Orders was clear enough; the draft decision could remind Governing Body members of its wording.
- 112.** With regard to the follow-up to representations, ad hoc tripartite committees, rather than the Committee of Experts on the Application of Conventions and Recommendations (CEACR), should retain responsibility for follow-up action taken on the recommendations.
- 113.** *The Worker spokesperson* said that the article 24 procedure functioned well, thanks to the consensus found on the continued operation of other branches of the supervisory system. However, the exhaustion of national remedies should not become a criterion for receivability, and she agreed with the wording of question 5 in the model form. She agreed also with the wording of question 7; however, that question was best answered by the Office itself, as complainants would not necessarily know whether an issue had already been brought before an ILO supervisory body.
- 114.** The Workers' group supported the principle of using voluntary conciliation only in cases where the complainant organization had indicated its willingness on the form and the government had subsequently agreed. Otherwise, a representation should be examined by an ad hoc tripartite committee. The Workers could support the Employers' proposal to include in question 6 of the form a reference to having no objections, rather than indicating willingness. She supported the approach outlined in paragraph 9(ii) of the Office document, provided that the complainant had indicated its willingness to access conciliation. A six-month time limit for conciliation should be made explicit in the draft decision. The ad hoc tripartite committee should continue to meet during the conciliation period to monitor progress, as proposed in paragraph 9(iv). Once the conciliation period had expired or the complainant had indicated that conciliation had failed and requested the resumption of the procedure, the ad hoc committee must proceed directly to consider the merits of the case, as proposed in paragraph 9(v). The Workers' group agreed that the adjustments should be trialled for two years.
- 115.** The group strongly supported the long-standing practice of automatically referring representations on Conventions covering freedom of association and collective bargaining to the CFA. Neither the practice, nor the relevant wording of the Standing Orders concerning the procedure for the examination of article 24 representations needed to change. The CFA had always dealt with complaints regardless of whether Conventions Nos 87 and 98 had been ratified. The Committee examined representations in a separate report to the Governing Body, therefore the distinction between representations and regular CFA complaints was already clear. The current procedure ensured that the most competent ILO body considered complaints and representations on freedom of association while avoiding procedural duplication or incoherence. Nonetheless, the Workers' group could accept the proposal in paragraph 11 that the Governing Body could instruct the CFA to examine representations referred to it according to the procedures set out in the Standing Orders for the examination

of article 24 representations. That would include the examination of the merits of a complaint in separate meetings. No new procedure should be established, but rather a subcommittee would operate under the umbrella of the CFA.

116. No agreement had been reached between the social partners to change the way that reports of the CFA were dealt with. The compromise they had reached would mean that the current working methods, including use of the *Digest of decisions and principles of the Freedom of Association Committee* as the basis for the examination and assessment of cases, would remain unchanged and would provide the consistency that was important to matters of freedom of association and collective bargaining.
117. With regard to the functioning of ad hoc tripartite committees, the Workers' group supported the proposal to harmonize treatment, including in relation to correspondence, time frames and deadlines for receiving replies and the convening of committee meetings. Although some representations could be more resource-intensive, representations from all regions should receive equal treatment, which would require the Office to arrange for translation and interpretation services. Given that it was difficult to know in advance which Conventions would be the subject of complaints, it was not clear that a roster of potential ad hoc tripartite committee members would be useful.
118. She agreed that the Governing Body should be informed of the status of pending representations in a regular report, which should also include information on whether the government concerned had failed to respond in time to a request by the ad hoc tripartite committee. The Workers' and Employers' groups had agreed that those reports should be issued in March and November. She supported the proposal that Government members of an ad hoc tripartite committee should be from ratifying member States unless no Governing Body member had ratified the Conventions concerned.
119. With respect to integrity and procedural safeguards, the Workers' group agreed with the proposals in paragraph 16, but could accept the Employers' proposal to specify that there were existing measures and potential new measures. The Workers' group strongly supported integrity measures.
120. On follow-up to representations, the actions set out in paragraph 17 of the document would prove useful, but table 1 should give more details, such as the type of technical assistance provided, advice on legal reform and development of an action plan. The information document would not offer an assessment of the outcome of any follow-up action, which should remain the task of the CEACR. Follow-up measures should be more systematically included in the recommendations of the ad hoc tripartite committees, together with the provision of technical assistance and tripartite follow-up at the national level. She welcomed the proposal to systematically invite governments to avail themselves of technical assistance. The integration of follow-up to representations in Decent Work Country Programmes (DWCPs) was also welcome, alongside the provision of technical assistance for member States to develop a time-bound action plan to facilitate reporting on the follow-up to recommendations as part of their article 22 reporting. The Workers' group therefore proposed that paragraph 72(1)(e) should be amended to include the consideration by the Governing Body.
121. *Speaking on behalf of the Government group*, a Government representative of the Republic of Korea said that his group was not yet able to take a position on the draft decision. He expressed support for the proposed optional voluntary conciliation at the national level, while noting that organizations submitting representations should retain full access to the supervisory system. He took note of the new proposal on the referral of representations to the CFA and looked forward to a constructive discussion on the issue. He welcomed the

inclusion in the document of Government members' suggestions on the conditions for governments' membership of an ad hoc tripartite committee.

122. *Speaking on behalf of the Africa group*, a Government representative of Namibia said that conciliation or other forms of dispute resolution at the national level should be the preferred route, which would be consistent with the goal of offering speedy and cost-effective justice, and promoting social dialogue at the national level. The Africa group would prefer an indication of having no objections rather than an indication of willingness. If a representation was found receivable by the Officers of the Governing Body and the member State had a mechanism capable of dealing with the issues of a representation, the recommendation should be that the parties should resolve it at the national level. That would involve discussion with the parties, rather than relying on a form, without removing the complainant's right to object to the procedure. She agreed that conciliation at the national level should be for six months, and that the work of an ad hoc tripartite committee should commence only if no agreement had been reached upon expiry of the six-month period.
123. *Speaking on behalf of ASPAG*, a Government representative of China expressed support for optional voluntary conciliation at the national level, to be reviewed by the Governing Body after a two-year trial period. Meanwhile, member States' capacity should be developed to enable the timely settlement of labour disputes. The group also welcomed the proposal to publish an information document on the status of pending representations, which would enhance the transparency of the representation procedure. However, there were concerns regarding the proposal that ratification of the relevant Conventions should be a condition for member States' participation in ad hoc tripartite committees, as that could lead to imbalance in the regional representation of governments; preference could be given to ratifying countries rather than ratification being a prerequisite. He asked the Office to provide further information on the implications of the proposal and a breakdown of the past cases in which a Government member of an ad hoc tripartite committee had been a non-ratifying country.
124. *Speaking on behalf of GRULAC*, a Government representative of Paraguay said that the receivability criteria should not require the exhaustion of national remedies. The ad hoc tripartite committee should be provided with information on whether national procedures had been used along with their status or the reasons why the complainant had chosen not to use them; that would improve the efficiency of the mechanism. That concern had been taken into account in the Office document and model electronic form. The ILO supervisory mechanisms must contribute to strengthening national mechanisms, and the group supported the promotion of the use of conciliation or other similar measures at the national level. Such national procedures required the consent of all parties, but account must be taken of the applicable national legislation. In some cases, conciliation was obligatory. Furthermore, if a complainant chose to initiate an international procedure, it was clear that either there were reasons not to choose national mechanisms, or that those mechanisms had been unsuccessful. Thus, he proposed amending question 5 of the model electronic form to read:

Please indicate: (i) whether or not your organization has pursued conciliation or other measures at the national level; and (ii) if so, please indicate the current status or outcome of the conciliation process or other measure; or (iii) if not, please indicate the reasons why it was decided not to do so. Exhaustion of conciliation or other measures at the national level is not a prerequisite for the submission of a representation. However, in certain cases they may be effective.

125. That proposed formulation would not limit the tripartite committee's ability to act; rather, it would strengthen national procedures and ensure that the representations mechanism was being used responsibly by encouraging the complainant to consider all available means of recourse. In addition, the amended formulation addressed the fact that conciliation was not always an option, and resolved the issue of the Director-General's proposed intervention, referred to in paragraph 9(ii). While the Director-General could invite parties to use national

conciliation or other measures, such procedures were subject to national receivability criteria. Furthermore, the Director-General would typically intervene with the executive authorities, while the majority of conciliation and other similar procedures were supervised by the courts or other independent authorities.

- 126.** With regard to the referral of representations concerning freedom of association or collective bargaining to the CFA, he noted that, under article 12(a) of the Standing Orders, the Governing Body could decide to refer a representation to the CFA, but was not obliged to do so. Any referral must be based on objective considerations, and not merely on the basis of the experience of the CFA, as the capability of members of an ad hoc tripartite committee could not be prejudged. The Governing Body should hear the reasoning of its Officers, in conjunction with the group representing the complainant, before deciding on the appropriate body. One of the objective considerations for referring a representation to the CFA would be to avoid any duplication of work. Maintaining consistency alone was not an acceptable reason for such a referral, as support from the Office would ensure consistency among the different mechanisms with their different mandates.
- 127.** It was clear that creativity and flexibility would be required to improve the efficiency and effectiveness of the article 24 mechanism. Thus, GRULAC proposed a new procedure, whereby representations concerning freedom of association or collective bargaining would be referred to the CFA, after the parties had been heard and the Governing Body had approved. Such representations would be considered by a subcommittee comprising three members of the CFA, thereby providing experience and consistency. The subcommittee would have an independent chairperson proposed by the Government group, who did not need to be a member of the CFA. That subcommittee would meet in-between plenary sessions, and would consider only the representation referred to it, until the representation had been concluded. The subcommittee would not be a permanent body, and members would be selected on the basis of their availability and relevant experience. The subcommittee would act in accordance with article 24 of the Constitution, and would submit its recommendations to the Governing Body directly, without the need for approval by the CFA plenary. The subcommittee would be authorized to approach the parties to obtain any additional information it required, and to determine the deadlines for its own work.
- 128.** Concerning improvements to the functioning of ad hoc tripartite committees, the group welcomed the Office's decision not to create a new standing committee. It did not support the proposed creation of a roster of potential members of tripartite committees, as members should be selected for each case on the basis of relevant knowledge and availability. He agreed that the Governing Body should be kept informed of the status of pending representations through an information document. Members of ad hoc tripartite committees should be from member States that had ratified the Convention concerned, unless no Government member of the Governing Body had done so. As to the integrity of the procedure, the group had some concerns about the two proposals in paragraph 16, but did not object to them; nevertheless, they should be interpreted strictly and not as examples. Moreover, the Governing Body should continue to consider additional measures to improve the integrity of the procedure. For example, several regional groups had been in favour of appointing a Government chairperson to each ad hoc tripartite committee. Committees would thus be more balanced and efficient, and could better ensure that the Governing Body was kept informed of progress. The independent nature of ad hoc tripartite committees was compromised when their decisions were not recognized in later sessions; if the chairperson submitted reports to the Governing Body after each meeting, decisions would be subject to less external influence. The requirement for each member to sign the conclusions prior to their submission to the Governing Body could be removed to prevent delays. As discussions on procedures for representations under article 26 of the Constitution were ongoing and would have an impact on the Standing Orders for article 24 procedures, the Governing Body

would be able to carry out an overall review of the workplan for strengthening the supervisory system in November 2018 in order to make any necessary changes.

129. On the follow-up to representations, GRULAC welcomed the proposal to publish an information document on the ILO website. However, there had to be legal certainty concerning the conclusion of a case. Furthermore, received and completed actions should be represented in different colours. Concerning the reinforced integration of follow-up into recommendations, it was important to note that technical assistance could be offered by the Office, but the Governing Body could invite a government to avail itself of that assistance only if the Committee had expressly so decided. The ad hoc tripartite committee should clearly establish until when follow-up should be pursued for each case, by establishing time frames or specific target outcomes.

130. The group proposed amendments to the draft decision, whereby the first sentence of paragraph 72(1)(a) would read: “arrangements to allow for a temporary suspension of the examination of the merits of a representation upon recommendation by the ad hoc committee to seek conciliation or other measures at the national level”. At the end of paragraph 72(1)(d), the words “including measures to provide for a chairman of the ad hoc committee in addition to its three members” would be added. Lastly, paragraph 72(4) would read:

[R]equests the Office to present at its 334th Session, taking into account the guidance received during the current session of the Governing Body and following consultations with the tripartite constituents, a set of necessary measures and adjustments to regulate the practice relating to the examination of article 24 representations to ensure that representations referred to the Committee on Freedom of Association are examined according to the procedure set out in the Standing Orders.

131. *Speaking on behalf of IMEC*, a Government representative of the United States welcomed the compromise proposal for recourse to national conciliation procedures with the assistance of the Office or the secretariats of the Workers’ and Employers’ groups, without establishing a prerequisite for accessing the article 24 mechanism. Her group appreciated the incorporation of the possibility of recourse to new or ongoing legal or other measures at the national level, again without a prerequisite. The group continued to support a trial period of two years. It was also essential to maintain uninhibited access to the article 24 mechanism for constituents while modifications were trialled and refined. The safeguards against undue pressure on complainant organizations were welcome and should be prioritized. Accordingly, procedural modifications should provide for recourse to conciliation or other measures at the national level only when the complainant had indicated interest on the submission form, rather than when the Officers of the Governing Body or the ad hoc tripartite committee decided to encourage such measures; however, the group was open to other views on the matter. Based on the need to ensure coherence and avoid any overlap between supervisory bodies, she requested the Office to provide suggestions on how to proceed when an article 24 representation was submitted on a topic already under examination by another supervisory body.

132. The draft standardized form for electronic submission of article 24 representations could unburden, clarify and strengthen the procedures, and appeared to cover the relevant issues. However, the group had supported the removal of question 7 from the draft form, in line with the Governing Body’s concerns that it could place an undue burden on the complainant, and would like to know why it had been retained.

133. The group continued to support the proposal to publish an information document for the Governing Body on the status of pending cases, and the proposals regarding the integrity of the procedure and measures to protect ad hoc committee members from undue interference. Her group also continued to support ratification of the Conventions concerned as a condition for government membership of ad hoc tripartite committees, and appreciated the inclusion

of provisions for situations in which no Governing Body member met that condition. It was useful to have the analysis of the past ten years, which suggested that the new measure would be feasible. She asked the Office to further clarify how often the Government member had originated from a non-ratifying country, given that the new provision would only apply to Government members.

134. IMEC continued to support measures to reinforce integration of follow-up measures in the recommendations of committees and to produce a regularly updated information document on the effect given to those recommendations. The group appreciated that follow-up by the ad hoc tripartite committees could strengthen visibility and tripartite governance, but considered that the practical constraints involved in keeping representations open, regular supervision suspended and ad hoc committees in place made the proposal unworkable; the task of the ad hoc committee should continue to end with the approval of its report.
135. She expressed continued support for the referral of article 24 representations on freedom of association to the CFA. The current distinction between article 24 representations and regular complaints to the CFA was sufficiently clear, but the group did not object to further assessment of measures to make it even clearer. Indeed, IMEC would strongly prefer to refer the matter to the CFA for assessment and proposals before taking any further decision, and invited the Office to provide information on how the CFA had handled previous article 24 cases. The group would like to invite the CFA to consider modalities for handling article 24 representations under procedures more closely aligned with those used for other article 24 measures. IMEC supported paragraph 72(1) and (4) of the draft decision in full.
136. *Speaking on behalf of ASEAN*, a Government representative of Thailand highlighted the need to optimize existing legal procedures at the national level in the case of voluntary conciliation; that would both reinforce the ILO's efforts to promote social dialogue, and strengthen institutional trust and capacity among the relevant national stakeholders. His group did not believe that ratification of the Conventions concerned should be a qualification criterion for government membership of ad hoc tripartite committees reviewing representations.
137. *A Government representative of Switzerland*, also speaking on behalf of Spain, said that she was satisfied with the possible adjustments to the processing of representations and the details regarding recourse to optional voluntary conciliation at the national level. The new article 24 procedure proposed in figure 1 was a good compromise and the safeguards were well established. As to the referral of representations concerning freedom of association or collective bargaining to the CFA, the Governing Body had consistently decided to do so, and there had been no objections. She expressed support for paragraph 72(4) of the draft decision, as the CFA should examine representations according to the same procedure provided for by the Standing Orders concerning the examination of article 24 representations; that would also take into account the expertise of the CFA. The CFA could also examine representations in a different way, such as through a subcommittee, which would respect the format of the ad hoc tripartite committee provided for under the article 24 procedure and allow analysis of all elements of the representation and assignment of the necessary time. Such a compromise was close to that proposed by the social partners.
138. *The Employer spokesperson* said that the current discussion presented an opportunity to rectify weaknesses in the article 24 procedure, in particular the lack of transparency and efficiency, and to reinforce tripartite governance. His group had consistently disagreed with the concept of automatic referrals, and some governments had called for clarification on the situation. If the Governing Body decided to refer article 24 representations to the CFA, as was its prerogative, he reiterated that an ad hoc subcommittee should be established and given sufficient time to examine the merits of the representation dealing with the ratified Conventions in a separate meeting, to ensure access to all relevant details of the

representation. Moreover, if the ad hoc subcommittee decided to base its decision on the *Digest*, it should do so in addition to other sources, including the statements made by the tripartite constituents during the 323rd Session of the Governing Body.

139. The temporary suspension of the article 24 procedure should not be limited to six months; indeed, there should not necessarily be a time limit at all. The procedure should allow more time for documents to be submitted, and he requested the Governing Body to allow constituents to submit documents up to five days before the discussion instead of the current deadline of 15 days prior, to ensure that they had adequate time to prepare.
140. *The Worker spokesperson* said that the Workers' and the Employers' groups proposed the following amendments to the draft decision. The words "for a maximum period of six months" should be added to paragraph 72(1)(a) before "of the examination of the merits", and the words "as expressed in the complaint form, and the agreement of the Government" should be added after "the complainant" in the same paragraph. The words "at the March and November Governing Body sessions" should be added to paragraph 72(1)(b) after "representations". A new paragraph 72(1)(b)(i) should be added, to read: "Governing Body members of article 24 committees need to receive all information and relevant documents from the Office sufficient time in advance before they are called to adopt conclusions of their committees (15 days in advance)". In paragraph 72(1)(d), the word "existing" should be added before "measures" and the words "possible other measures agreed by the Governing Body where necessary" should be added after "measures". The words "for its consideration by the Governing Body" should be added to paragraph 72(1)(e) after "effect given to these recommendations". Lastly, paragraph 72(4) should be amended to read: "Instructs the Committee on Freedom of Association to examine representations referred to it according to the procedures set out in the Standing Orders for the examination of article 24 representations, to ensure that representations referred to it be examined according to the modalities set out in the Standing Orders".
141. Turning to the streamlining of reporting, the Workers supported the proposals on the computerization of the supervisory system, in particular the development of an electronic information management system and e-reporting. However, they did not support the inclusion of overly simplified options such as indicating "no changes since last report", which could discourage governments from providing information. The ILO should bear in mind a lack of computer facilities and Internet access in some parts of the world; e-reporting should therefore remain optional, at least during a transitional phase.
142. With regard to the thematic grouping of Conventions for reporting purposes, her group would have preferred option 1, but could consider accepting option 2. Its concern was over extending the reporting cycle for technical Conventions from five to six years. It was important, before going in that direction, for the CEACR to review, clarify and explore the possibility of breaking the reporting cycle with respect to technical Conventions. Her group agreed on the need for a more coherent and holistic analysis, provided that clear recommendations were provided to constituents on the requirements under each Convention. Her group also accepted the adoption of a consolidated report form for all simplified reports and welcomed the decision to introduce "urgent appeals" in certain cases of failure to report.
143. With respect to the availability of information contained in article 22 reports and their publicity, the proposed pilot project for the establishment of baselines on the application by member States of ratified Conventions would be interesting as part of ILO research and advisory functions. The Employers and the Workers agreed that it should be implemented on the basis of the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187).

144. *The Employer spokesperson* expressed his group's continued preference for option 2 with respect to the thematic grouping of Conventions for reporting purposes. As for the availability of information contained in article 22 reports and their publicity, his group would prefer to test the proposed pilot project on the basis of Convention No. 187 rather than the more complex Maritime Labour Convention, 2006, (MLC, 2006), as amended. Paragraph 72(7)(d) of the draft decision should be amended accordingly.
145. With regard to paragraph 60 of the document and the invitation to the CEACR to make proposals on its possible contribution to optimizing the use made of article 19, paragraphs 5(e) and 6(d), of the Constitution, the Employers proposed adding to the end of paragraph 72(5) of the draft decision the wording "in particular by considering measures to improve the presentation of General Surveys, so as to ensure a user-friendly approach and format that maximizes their value for constituents".
146. *Speaking on behalf of the Government group*, a Government representative of the Republic of Korea said that his group strongly supported the streamlining of reporting. Noting the Office's assurance that it would listen to governments' concerns on e-reporting, it looked forward to receiving more information on the progress of proposals at the 334th Session of the Governing Body. Computerization should be approached carefully and take into account information technology facilities in developing countries. His group welcomed the thematic grouping of Conventions under option 2. He stressed that member States should not have to assume more reporting obligations and said that the 1 September deadline for the submission of regular reports was not too late. Although it was regrettable that fewer article 22 reports had been submitted to the Office on time for the 2017 session of the CEACR in comparison to the previous year, it was important to acknowledge that governments were increasingly obliged to report and hold consultations with the social partners. His group welcomed the Office's proposal to provide more information on a pilot project for the establishment of baselines for the MLC, 2006, as amended, and other Conventions such as Convention No. 187.
147. *Speaking on behalf of the Africa group*, a Government representative of Namibia said that effective computerization of reporting systems would require not only additional time but also robust technical assistance, in the form of infrastructure and training, so that no member States or other constituents were left behind. In general, her region had a strong preference for resolving disputes at the national level wherever possible.
148. *Speaking on behalf of ASPAG*, a Government representative of China said that his group supported streamlined reporting through the thematic grouping of Conventions as per option 2. ASPAG also strongly supported the proposed new form for simplified article 22 reports, as it would facilitate reporting and improve readability. A pilot project to establish baselines was welcome in so far as participation in the project was purely voluntary. A detailed proposal for computerizing the supervisory system would also be welcome so long as it was accompanied by a training programme tailored to the needs of developing countries.
149. *Speaking on behalf of GRULAC*, a Government representative of Paraguay said that his group supported the thematic grouping of Conventions using option 2 and the adoption of a new form for simplified reports. The proposed virtual platform was welcome, and the MLC, 2006, was a particularly suitable choice for a pilot. Regarding the cost information set forth in paragraph 23 of the report, he inquired whether implementation of the e-reporting system would result in any savings arising from improved efficiency. The 1 September deadline for CEACR reports should be retained. It was unclear what was at issue in the discussion of the Committee's working methods; there were already safeguards in place for cases that arose outside the regular reporting cycle, and the criteria for accommodating exceptional cases within the supervisory system were not excessively strict. As for online reporting, the Information System on International Labour Standards platform, NORMLEX, was an

appropriate site for hosting the new system. There should be ongoing communication with constituents to ensure that the system was user-friendly for them. While his group was in favour of computerization, governments should be allowed to continue providing paper reports for the time being if they wished to do so.

- 150.** *Speaking on behalf of IMEC*, a Government representative of the United States said that her group also supported using option 2 to thematically group Conventions. Given that the new reporting arrangements would not take effect until 2019, the current reporting cycle should remain in place for governments that had already begun their reports for 2018. Although IMEC fully supported computerization, it remained unclear whether the proposed e-reporting system would be a substantial improvement over the existing system. Nevertheless, as electronic processing and sorting of information was a key objective of the Standards Initiative, her group was willing to consider possible e-reporting systems as set forth in paragraph 72(7)(c) of the document. That approval was not open-ended, however; the Office must consult with governments during the design phase and provide opportunities for them to test and provide feedback on the user interface before trial reports were submitted. IMEC also strongly preferred a system whereby governments could continue to submit comments from social partners along with their national reports, in line with current processes and obligations under the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144).
- 151.** While the current report forms were not unclear, IMEC still supported a new form for simplified reports and welcomed the fact that any major changes would be subject to Governing Body approval during the transition to electronic forms. Her group still held that ILO requests for reporting should be sent directly to ministries of labour rather than transmitted through national missions in Geneva. As it remained impossible for governments to meet a reporting deadline any earlier than 1 September, the Office should consider the proposals outlined in paragraph 48 of the document in order to alleviate its workload while retaining the existing deadline. IMEC was open to designating a pilot Convention for establishing baselines, and she agreed that Convention No. 187 could be a simpler, more cost-effective candidate than the MLC, 2006. However, further information was needed on the related costs, the feasibility of scaling up the pilot and the extent to which the text of the reports would be made public. For some governments, producing reports for publication on the Internet would require considerable extra preparation. IMEC supported subparagraph 72(5) of the draft decision, including the invitation to the CEACR to make proposals on ways of optimizing the use made of article 19 of the Constitution, in so far as the goal was to enhance existing reporting and not to increase the reporting burden.
- 152.** *Speaking on behalf of ASEAN*, a Government representative of Thailand said that while the ILO's efforts to optimize the article 22 reporting process were appreciated, more information was needed in order to determine the best method for doing so, given the potential impact on the already heavy reporting burden of member States. Participation in the project and any subsequent expansions must therefore be voluntary. Computerization of the supervisory system, simplified report forms and the thematic grouping of Conventions held great promise. A comprehensive, easy-to-use platform, if well implemented, would enable better planning and timely execution, with the potential to ease the reporting process for member States significantly. To that end, training should be provided to government officials on reporting methodologies and proper navigation of the system.
- 153.** *The Chairperson* invited the Governing Body to consider ways of making better use of article 19, paragraphs 5(e) and 6(d), with reference to subparagraphs (3), (6) and (7)(b) of the draft decision set out in paragraph 72 of the document.
- 154.** *The Employer spokesperson* said that choosing a topic for the General Surveys must not distract from the fact that the Surveys should cover all provisions of the selected instruments,

in line with article 19, paragraph 5(e), of the ILO Constitution. It would be unacceptable and outside the spirit of article 19 to hold a General Survey in which only those provisions of an instrument related to a given topic were considered. As the future questionnaire must fall within the scope of article 19, paragraphs 5(e) and 6(d), it was doubtful that it could also address broader policy matters, given that ILO Conventions and Recommendations did not refer to the Organization's broader strategic objectives.

- 155.** The Employers welcomed the proposals contained in paragraph 60 of the document as to ways that the CEACR could contribute to optimizing the use of article 19. The first step should be to explore what could be improved in terms of how the General Surveys served ongoing discussions. Targeted measures, including improved questionnaires, should then be developed on that basis. General Surveys containing complete, solid and relevant information presented in an easily comprehensible manner would help advance meaningful discussions and outcomes and contribute to discussions of the SRM TWG.
- 156.** *The Worker spokesperson* said that it was a priority for her group to make article 19 more effective; the Governing Body should submit proposals to that effect at its session in November 2018, as planned. Increasing ratification rates of ILO Conventions across all regions should be a key element of the supervisory system, and would be in line with the Social Justice Declaration. The Governing Body should therefore pursue the existing modalities for developing questionnaires. She expressed concern, however, at the implication in paragraph 56(2) of the document that outdated provisions were the only obstacle to ratification when, in fact, numerous other factors should also be taken into account, including the lack of technical assistance from the Office and insufficient promotion of standards. Moreover, the matter of deciding whether a provision was up to date was highly subjective and best left to the Office or other experts.
- 157.** Her group supported the introduction of measures to enhance the submission rate and quality of reports, as proposed; requesting proposals from the CEACR with regard to the optimized use of article 19; and the introduction of the proposed measures for enhancing discussion of the General Surveys during informal tripartite consultations on the working methods of the CAS. It would be useful to appoint experts on that subject, but difficult to do so in practice in view of the limited working time available to the Committee. CAS officers should continue to address and discuss General Surveys with the Governing Body following their own discussions. In addition, the overall debate on and follow-up to the General Surveys should be improved. The amendment proposed by the Workers' and Employers' groups had introduced more general language in subparagraph 72(3) of the draft decision for that reason, in order to allow for further discussion.
- 158.** With regard to the annual review under the follow-up to the ILO 1998 Declaration, the Workers supported the proposals made in the document to improve the discussion of the annual reviews in the ILO Governing Body.
- 159.** *Speaking on behalf of the Government group*, a Government representative of the Republic of Korea said that his group had no unified position regarding the article 19 procedure but reiterated its call for coherence within the supervisory system as a whole; in particular, duplication of efforts and increases to the reporting burden should be avoided.
- 160.** *Speaking on behalf of ASPAG*, a Government representative of China said that while the improved use of article 19 would be welcome, it must not lead to a greater reporting burden. Efforts to streamline the process should focus on increasing the usefulness of reports and not distract from the reporting itself. Similarly, future Governing Body discussions on the topic should be better structured and provide clearer information to constituents.

- 161.** *Speaking on behalf of GRULAC*, a Government representative of Paraguay, said it was important to improve the efficiency of the supervisory system. The practice of holding two discussions at two subsequent sessions of the Governing Body should be continued. Regarding follow-up, the proposal to invite governments of States that had not yet ratified certain Conventions raised many questions and would create an extra burden for the Governing Body agenda. Who would decide which States would be invited and to what extent would governments be able to discuss their cases in depth? The measures outlined in paragraph 63 did not meet the expectations of governments with regard to the CAS. The General Survey deserved an in-depth, tripartite discussion. Some available measures had not been mentioned, such as advance consultations on the CAS conclusions with respect to the General Survey. The CAS conclusions, and the General Survey in particular, should be evaluated. GRULAC had on many occasions requested that informal consultations on the working methods of the CAS be extended to include a larger number of governments, for example 16 governments – four per region, eight Employers and eight Workers.
- 162.** Regarding actions submitted for guidance, dialogue between the supervisory bodies could be a useful and interesting tool to strengthen the system, overcome unnecessary duplication and assess consensus. Care should be taken regarding which information to share and the aim should be to increase efficiency, not to address the substance of individual cases. The action could be trialled for a limited time on an experimental basis. The working methods of the supervisory bodies could not be limited to just those bodies, given the implications for the system as a whole. With regard to the discussion of the Standards Initiative at the 334th Session, GRULAC would like to see an item for discussion, subject to prior tripartite consultation, on the working methods of the supervisory bodies. GRULAC fully supported a discussion on enhancing the transparency of the mechanism. The working methods of the Governing Body with regard to article 26 had evolved to better include the tripartite constituents. Visibility given to cases in the Governing Body might infer the suspension of all other special supervisory procedures, once the decision on the receivability of a case by the Governing Body had been made. Finally, GRULAC was in favour of further steps to ensure legal certainty. It was a fundamental value which should be ensured under all the existing supervisory procedures. The establishment of a new body under article 37(2) should be taken up at a later date; it did not constitute a solution to the challenge of legal certainty.
- 163.** *Speaking on behalf of IMEC*, a Government representative of the United States said that IMEC aligned itself with the Government group statement. General Surveys were valuable reports which deserved more attention. General Surveys could feature more prominently in the work done on the recurrent discussions and she appreciated the Office's recent efforts to propose subjects that aligned General Surveys and recurrent discussions under the same strategic objective. However, article 19 requests had become both broad and lengthy in recent years. The objective was to streamline reporting and to make better use of existing reporting. Therefore IMEC did not support the proposed broadening of questions included in article 19 requests, as suggested in paragraph 56(2), or further suggestions in paragraph 57 pertaining to the promotion of instruments. She asked the Office to clarify the proposal for the inclusion of questions on the broader policy context, which would serve to unnecessarily lengthen and complicate the questionnaires, potentially expanding them beyond the scope of the selected Conventions or instruments. She welcomed the suggestion that questionnaires could invite constituents to present views in respect of provisions of instruments that were no longer considered up to date.
- 164.** With regard to paragraph 72(3) of the draft decision, IMEC supported the proposal to create a standing item at the November Governing Body sessions to follow up the discussion of the General Survey. In the interest of time management, non-ratifying governments should not be invited to speak, but could be allowed to submit written information to inform the discussion. The standing item could be trialled before full implementation to determine whether it facilitated linkages. IMEC supported paragraph 72(6) of the draft decision, on the

understanding that the Governing Body was not asking for more time to be dedicated to the discussion of the General Survey at the expense of time allotted to individual cases. There was strong opposition to the establishment of parallel sittings or subcommittees, which would limit the full participation of all delegates in the work of the Committee. IMEC supported the suggestion that the time allotted to opening items in the CAS could be reduced; that question could be referred to the Working Group on the Working Methods of the CAS. Finally, IMEC sought further explanation from the Office on recourse to experts during the CAS discussion of the General Surveys, as proposed in paragraph 62. It was important to exercise caution when introducing new elements or speakers and to ensure that such modifications would add value to the Committee's work. With those comments, IMEC supported paragraphs 72(3), (6) and (7)(b) of the draft decision.

- 165.** *The Chairperson* said that, having heard all the interventions on that part of the document, the discussion would proceed with the proposal for a follow-up procedure, outlined in paragraph 72(7)(a).
- 166.** *The Worker spokesperson* recalled, regarding action 1.2, that her group had already said it was not in favour of a regular meeting between the supervisory bodies, which might end up unduly influencing and undermining the independence and authority of the supervisory system. It did not recognize any added value in terms of strengthening the supervisory system. She stressed the importance for the Governing Body to consider the three actions arising out of the “Joint Position of the Workers’ and Employers’ groups on the ILO Supervisory Mechanism”. She did not support action 2.1 because it would limit the various methods currently used by the Governing Body to handle cases, taking into account the content of the case and country situation. She supported the development of a guide to explain the procedure and linkages with other procedures. Regarding action 2.3, she strongly supported the proposal for informal tripartite consultations on the elements and conditions necessary for the operation of an independent body under article 37(2) of the ILO Constitution, leading to an item on the Governing Body agenda if the consultations resulted in tripartite consensus. She asked the Office to clarify how the points were related to preparations for the November Governing Body session. She asked the Employers to clarify which part of the text had not yet been agreed.
- 167.** *The Employer spokesperson* said with regard to action 2.1 that the Employers supported a staged approach on the understanding that the second step, the codification, would not be automatic but would depend on the outcome of the first step. Regarding action 2.3, he recalled that in earlier discussions and consultations there had been little support for developing that proposal further, given the difficult political and legal questions involved. While he was not opposed to tripartite consultations on the issue, he stressed that there was no automatism between the first and second steps, let alone between the second step and the setting up of a body under article 37(2); he wished the Office to note that position. He proposed an amendment to the draft decision.
- 168.** *Speaking on behalf of IMEC*, a Government representative of the United States said that regarding action 1.2, IMEC fully supported the notion of increased transparency, coherence and communication between the supervisory bodies. Nevertheless, constituents had expressed reservations about the added value of that option and she therefore suggested its withdrawal. She had concerns about the additional cost the meeting would incur and doubts surrounding the feasibility and utility. IMEC was generally supportive of the three actions arising out of the “Joint Position of the Workers’ and Employers’ groups on the ILO Supervisory Mechanism” of March 2017 listed in paragraph 68 and would welcome a fuller discussion of the details of the proposals. With regard to action 2.1, IMEC considered that clear, transparent and accessible information regarding the article 26 procedure could guide members, helping them to better understand procedural requirements and to prepare for cases. Clear articulation of procedures could also improve time management in Governing

Body discussions, particularly of new complaints. IMEC supported the staged approach, and expected considerations during the second stage to include discussion of the admissibility criteria. IMEC did not yet have a position regarding action 2.3. It supported paragraph 72(7)(a) of the draft decision and looked forward to reviewing proposals for discussion at the 334th Session of the Governing Body.

- 169.** She suggested that for the future, there should be clear delineation between the various topics in the structure of the paper, in the discussion and in the draft decision. Each topic should be taken separately as independent subtopics, each with its own draft decision. Furthermore, the draft decision should be explicit and not include references to specific paragraphs containing alternatives, which complicated the Governing Body's discussion and created a lack of clarity. With those comments IMEC supported paragraph 72(7)(a) of the draft decision and paragraph 72 in full as drafted.
- 170.** *A Government representative of Switzerland*, said that Switzerland supported the three actions presented in paragraph 68 and welcomed the first annual report of the CFA, which was an important step in increased transparency and exchange of information with other ILO bodies. Switzerland had always supported the reinforcement of the legal certainty of the system and therefore also supported paragraph 71, aligning itself with the statement made by France. He supported the draft decision.
- 171.** *A representative of the Director-General* (Director, NORMES), responding to a question from IMEC on the structure of the discussion of the document, acknowledged that the document was very complex. As far as possible, the Office would take the comments into account for the preparation of the next report. The Office proposed holding individual meetings with the three groups, followed by a tripartite discussion, to look at the three actions proposed and consider how tripartite discussions could be organized on the subject.
- 172.** *The Chairperson* suspended the remainder of the discussion until the second week of the Governing Body.
- 173.** *The decision was deferred to a future session of the Governing Body.*

Sixth item on the agenda

Results of the implementation of the ILO Action Plan for Gender Equality 2016–17, and outline of the subsequent ILO Action Plan ([GB.332/INS/6](#))

- 174.** *The Employer spokesperson* welcomed the opportunity to examine implementation results of the Action Plan 2016–17 and to provide guidance on the approach of the Action Plan 2018–21. Gender equality was at the heart of the ILO mandate and the Employers were favourable towards measures towards that in the Action Plan. Although the report contained useful information, it had not integrated the Employers' group's comments at the 326th Session of the Governing Body on the Action Plan 2010–15 when it had asked the Office to systematically assess through a qualitative analysis why some targets had been met while others had not. The report did not provide lessons learned on factors hindering or promoting success, obstacles to achieving targets, how to better measure results, and how ILO staff could be held more accountable for target attainment. It would also have been useful for the report to provide a perspective on progress made since 2010 by comparing results with previous bienniums.

175. The report did show that the majority of the Action Plan 2016–17 targets had been met, and that was laudable, although nine of 32 indicators had not been met, especially those on evaluation. That was a reflection of the difficulties in achieving gender equality in organizations, which needed strong engagement by management and a change in organizational culture at all levels.
176. She expressed concern at the Office’s approach, which sought to quantify results using indicators that were not adapted to different circumstances. Any quantitative approach should be analysed within the context of the country and its institutions. A standardized evaluation system based on absolute figures would not allow the Office to adequately measure gender equality in a particular context, nor identify relevant challenges; future reports should include qualitative as well as quantitative results.
177. The Employers expressed the hope that the Office would produce a synthesized Action Plan 2018–21 so as not to dilute the essence of the gender equality policy. The Action Plan should be easily comprehensible to all ILO staff in field offices and at headquarters. It was not necessary to increase the number of indicators for each new action plan, and some indicators could be reformulated to be more relevant and concise. The Office should prioritize effective means of communication with the priority on management teams and department and unit heads.
178. She supported aligning the Action Plan 2018–21 indicators with version 2.0 of the United Nations System-wide Action Plan on Gender Equality and the Empowerment of Women (UN-SWAP) and relevant SDG targets, and it must take into account lessons learned to better support constituents. Progress must be made internally so that the ILO could maintain its leading role in advocating for gender parity and join the other UN entities that had already achieved parity. The Action Plan 2018–21 should be aligned with the ILO Strategic Plan 2018–21. The Employers would like more information on future actions, in particular how the next Action Plan would serve as a basis for concrete actions under the Women at Work Initiative. The Employers’ group supported the draft decision.
179. *The Worker spokesperson* stated that her group fully endorsed the call of the ILO gender equality policy to take a leading role in international efforts to promote and realize gender equality. She welcomed the renewed focus on achieving gender parity at all UN levels.
180. She noted with satisfaction that 20 of the 32 Action Plan 2016–17 indicators had been met or exceeded – although nine had not, especially on evaluation, and statistics had not yet been available for three. She welcomed the fact that the Gender, Equality and Diversity and HIV and AIDS in the world of work Branch had developed more objective and quantifiable measurement criteria to assess implementation of the policy driver on gender equality and non-discrimination. She noted with satisfaction the progress on gender-responsive DWCPs and encouraged the Office and constituents to continue working towards the 55 per cent target. She noted efforts by the Gender, Equality and Diversity and HIV and AIDS in the world of work Branch to address the previously alarming situation of gender perspectives in development cooperation, and suggested that training and orientation sessions for new ILO staff members should systematically include a session on integrating gender into development cooperation.
181. The lack of gender-specific extra-budgetary approvals in the last biennium was a cause of concern; the Office should explain how that situation would be remedied and launch an appeal for donors. Her group expressed regret at the failure to achieve the 38 per cent target for women in senior staff positions; the Office should take action to achieve gender parity as set out in the UN System-wide Strategy on Gender Parity. The term “business owners” was not consistent with the ILO’s mission and should be amended in the following action plan, perhaps to “custodian”. Concerning results on evaluation, while the targets may have

been ambitious, the indicators were extremely low and much greater effort was needed to remedy that. She welcomed the fact that the evaluation strategy proposed to improve performance on gender-related indicators and expected that that would produce improved results in the coming years.

- 182.** More details about the Action Plan 2018–21 would have been useful, in an annex to the report. The introduction of the aims and strategy of the Action Plan 2018–21 should include a reference to international labour standards related to gender. The section on aims and strategies should provide examples of how the ILO would better support constituents to ensure equality issues were addressed in policy agendas. In the section on accountability and responsibility, the proposed target of only one high-level result on gender equality and the empowerment of women in the main planning document should be increased. In the section on monitoring, reporting and evaluation, clarification was needed on implications of aligning the Office’s annual monitoring with reporting to UN Women, in particular how that would impact on the Governing Body’s governance of the Action Plan. The ILO should continuously engage with UN Women, especially in the UN Commission on the Status of Women, and increase efforts on gender mainstreaming in the UN system, discussions on UN reform and the implementation of the 2030 Agenda. Each UN entity should integrate others’ best practices on gender issues. She welcomed the indicators on gender parity at the Regional Meetings and the International Labour Conference, and called on her colleagues in the Workers’ group to increase the proportion of women at the Conference and other ILO meetings. She expressed support for the programmatic indicators outlined in paragraph 21, but requested more information on the UN-SWAP indicators to which the relevant ILO indicators were to be aligned. The Workers’ group supported the draft decision.
- 183.** *Speaking on behalf of ASPAG*, a Government representative of Australia commended the Office on achieving or exceeding 20 out of the 32 indicators, particularly on improving the integration of sex-disaggregated data and analysis into its reporting, and welcomed the alignment of reporting with UN-SWAP. Greater efforts were needed to achieve the indicators under Evaluation, and the Office should include indicators for improving business ownership. The Better Work programme’s internal communications campaign on gender issues was welcome and should be replicated more broadly. She supported the proposal to align the Action Plan 2018–21 with the ILO’s Strategic Plan for 2018–21.
- 184.** It was critical for the Office to insist on staff accountability for gender equality, and when recruiting or organizing events and meetings that should be at front of mind. The ILO should consider a 50/50 gender split for panels and speakers to ensure it became the norm. She supported the inclusion of strong gender parity targets for delegates to the International Labour Conference and Regional Meetings, which should be the goal for all ILO meetings, missions and committees. She stated that her group emphasized the importance of allocating sufficient financial and human resources, including for country programmes, to support the promotion of gender equality and non-discrimination. The ILO should put the principles into practice and ensure women and men were equally represented in all aspects of the Organization. Gender-responsive analysis and a sustained focus on gender at the institutional, policy and programme levels should be pursued and linked to the Women at Work Initiative. Further information would be welcome on the impact of the Action Plan 2018–21 on the lead-up to the Organization’s centenary. ASPAG supported the draft decision.
- 185.** *Speaking on behalf of the Africa group*, a Government representative of Rwanda noted with appreciation the progress made in implementing the Action Plan 2016–17, the elements of the subsequent plan, the alignment of indicators with the revised and strengthened UN-SWAP indicators, and the 28 per cent increase in indicators in the Programme and Budget 2018–19 that were gender-inclusive. While 20 of the 32 Action Plan 2016–17

indicators had been met or exceeded, nine had not, notably concerning development cooperation.

- 186.** During implementation of the Action Plan 2018–21, the Office should pay special attention to: strengthening mechanisms for gender mainstreaming in interventions to promote livelihoods and reduce poverty; enhancing mechanisms on equal access to fair employment practices and economic benefits; promoting the elimination of violence against women while strengthening mechanisms to respond to the needs of vulnerable women; promoting equal access and full participation of women in power structures and conflict prevention and dissolution; ensuring women’s equal access to, and full participation in, decision-making and leadership; increasing technical assistance to implement DWCPs with a view to achieving the SDGs; and clarifying the role of the cross-cutting policy driver and how resources would be allocated to ensure implementation of the gender equality policy. The Africa group supported the draft decision.
- 187.** *Speaking on behalf of IMEC*, a Government representative of Ireland said that the progress achieved under the Action Plan 2016–17 was a great improvement on that made under the previous plan, but it was important not to be complacent. With regard to the Action Plan 2018–21, she welcomed the retention of two indicators on accountability, which had been piloted in the Action Plan 2016–17, and the introduction of indicators on leadership and the gender-related SDG targets. Alignment of the ILO Action Plan 2018–21 indicators with those of the UN-SWAP 2.0 was welcome, as was the recognition that separate reporting obligations to both the Governing Body and UN Women should be fulfilled. She requested the Office to continue publishing data on all UN-SWAP 2.0 implementation efforts and to explain how the Action Plan 2018–21 would take into account the System-wide Strategy on Gender Parity.
- 188.** It was important for the ILO to lead by example, so it was disappointing that the target for women in senior staff positions had been missed, which was a reduction of 1 per cent on the target of 35 per cent in 2015; efforts should be redoubled in that regard. The data on gender components in development cooperation projects continued to give cause for concern, and there were no gender-specific extra-budgetary approvals. IMEC therefore welcomed the planned efforts concerning the results-based management of the Action Plan 2018–21 to redress the low share of gender-responsive development cooperation. It was also important to strengthen the effectiveness of gender equality and non-discrimination as cross-cutting policy drivers.
- 189.** Efforts to develop staff members’ skills in conducting gender analysis would help to raise the visibility of the ILO’s gender-related achievements. Despite significant progress on gender-responsive DWCPs, the target had not been met and must therefore remain an area of focus in the Action Plan 2018–21. She expressed concern that only nine of the 36 policy outcome indicators in the Programme and Budget for 2018–19 contained gender equality and/or sex disaggregation as part of the indicator statement or qualitative criteria for success. The Office should clarify why gender equality aspects were taken into account more in the findings and conclusions of evaluations than in their design, methods and analysis. ILO standards on gender equality and non-discrimination at work were not mentioned in the report’s summary about the approach of the Action Plan 2018–21, despite two of them being core Conventions; she asked whether the Action Plan contained specific activities to promote those Conventions and whether it would cover the forthcoming standard-setting discussion on violence and harassment in the world of work. She welcomed the selection of the Women at Work Initiative as the theme for the Director-General’s Report to the 2018 session of the Conference and expressed the hope that the resultant discussion would be taken into account in future ILO action on gender equality. IMEC supported the draft decision.

190. *Speaking on behalf of GRULAC*, a Government representative of Paraguay said that it was regrettable that the target of 38 per cent women in senior positions had not been attained. It would be useful for reports to indicate the geographical distribution of Director, Professional and General Service posts occupied by women. Efforts should be redoubled to exceed the target of incorporating the gender dimension in 55 per cent of DWCPs. The alignment of the Action Plan 2018–21 with the Strategic Plan for the same period was welcome and would improve the coordination of efforts on the representation of women in specific areas and the measurement and analysis of results. Engagement with UN Women and the alignment of the Action Plan 2018–21 indicators with the gender-related SDG indicators were most welcome. GRULAC reiterated its commitment to work with the Office in order to achieve positive results in implementing the next Action Plan.
191. *Speaking on behalf of the EU and its Member States*, a Government representative of Bulgaria said that the former Yugoslav Republic of Macedonia, Montenegro, Serbia, Bosnia and Herzegovina, and the Republic of Moldova aligned themselves with the statement. She supported the statement made on behalf of IMEC. Gender equality and women's empowerment ranked high on the agenda of the EU, and was a key issue in various EU strategies. It was important to maintain, and build on, progress achieved by women in the last century, and to take action to mainstream gender equality policies at the global level. She welcomed the Director-General's campaign against sexual harassment in the ILO, including in the field, and urged him to be transparent in ensuring a safe environment for victims to report incidents and concerns with the assurance that they would be dealt with appropriately. The UN system also required a robust mechanism to protect people in vulnerable positions in the field. Perpetrators of sexual exploitation and abuse and those who condoned them or managers who failed to take action had to be held to account.
192. Gender gaps persisted in several critical areas, which often led to women being at greater risk of poverty than men. Gender equality was essential for improving the functioning of labour markets and generating economic growth, which was particularly relevant to the future of work. That would require an integrated approach including policies and measures aimed at eradicating poverty, creating decent work opportunities, improving education and training and skills, combating gender-based violence, and providing social and health services. The ILO should continue efforts to incorporate gender equality in all organizational practices, policies and programmes, including in cooperation activities and by advocating against perceptions and social norms that led to discriminatory behaviours. ILO managers at headquarters and in the field should be adequately trained to provide constituents with tailored support on gender equality issues. She welcomed the results-based approach taken in the Action Plan 2018–21 and the additional indicators, and emphasized the importance of effective resource allocation and of accountability and reporting mechanisms. Aligning the Office's reporting on gender equality with reporting to UN Women would improve transparency, consistency and efficiency. She urged the ILO to undertake targeted efforts to promote gender equality in the implementation of the ILO Strategic Plan 2018–21 and the Programme and Budget for 2018–19 and 2020–21. The EU and its Member States supported the draft decision.
193. *A Government representative of China* welcomed the fact that 20 of the 32 indicators in the Action Plan 2016–17 had been met and encouraged the Office to continue to work towards the 38 per cent target for women holding senior positions. He expressed the hope that more women from developing countries would be recruited to such positions. He looked forward to receiving more information from the Office on the Action Plan 2018–21. China supported the draft decision.
194. *A Government representative of Argentina* said that gender equality could only be achieved through a continuous and concerted approach in policy governance. That required specific actions, including tripartite dialogue, equal pay, statistical monitoring of the gender pay gap,

and the enforcement of legislation to put an end to inequality. The President of Argentina had recently committed to ensuring legislation on equal pay was enforced and presenting a bill to extend paternity leave. She supported the conclusions of the Office document.

195. *A Government representative of Bangladesh* said that the achievement of 20 of the 32 indicators contained in the Action Plan 2016–17 was laudable; however, the Office should determine why the other targets had not been met and take steps to implement the Action Plan 2018–21 based on lessons learned. A strong evaluation and monitoring mechanism would ensure a results-driven outcome. He highlighted the progress made by Bangladesh to promote gender equality, including legislation and programmes to ensure access to education and health care, and the empowerment of women; moreover, the DWCP in Bangladesh included the gender dimension. The Office should disseminate good practices on gender equality through the implementation of flagship programmes that took regional and national priorities into account. Global and regional partnerships under the umbrella of South–South and triangular cooperation and efforts towards achieving SDG 17 would further the ILO’s efforts. He supported the draft decision.
196. *A representative of the Director-General* (Deputy Director-General for Policy (DDG/P)) expressed appreciation for the Governing Body’s recognition of the progress that had been made. Attaining gender equality was at the heart of the ILO’s mandate and a task for the whole Organization. Senior management took its role very seriously, and recognized that progress within the Office itself had a direct impact on policies and their implementation, and on the delivery of ILO activities in the field. The Director-General’s campaign against violence and harassment at work was just beginning, and was an important component of supporting ILO staff both at headquarters and in the field. With regard to how the ILO Action Plan would be aligned with the indicators provided by UN Women, the programme and budget would contain gender-related SDG targets; the Office would report to the Governing Body on efforts to strengthen capacity building of constituents; and the Office would ensure that ILO managers were gender champions. As to accountability, the Office was working to ensure that all DWCPs reflected gender equality. Additionally, contextual information on attainment of gender indicators in country programme outcomes was provided through the ILO’s Development Cooperation Dashboard.
197. The Office had noted the call for a more prioritized, concise and practical approach to gender equality in future action plans. The Action Plan 2018–21 focused on staffing, structure and substance, which were key to delivering gender-equal outcomes. The Director-General’s Report to the 2018 session of the International Labour Conference would provide an opportunity to follow up on the Women at Work Initiative; the work under it would be reflected in the Programme and Budget 2019–20. In line with its Human Resources Strategy 2018–21 and the UN System-wide Strategy on Gender Parity, the Office was to reach gender parity by 2021. Lastly, all international labour standards on women’s economic empowerment and gender equality were embedded in the Action Plan 2018–21.

Decision

198. *The Governing Body:*

- (a) *requested the Director-General to finalize and implement the ILO Action Plan for Gender Equality 2018–21, in light of the lessons learned from previous action plans, the revised UN System-wide Action Plan on Gender Equality and Empowerment of Women, and the UN System-wide Strategy on Gender Parity, and taking into account its guidance;*

- (b) *instructed the Office to conduct monitoring that coincided with the reporting period for the UN System-wide Action Plan on Gender Equality and Empowerment of Women, while maintaining separate reporting to the Governing Body on progress and gaps in meeting targets at the midpoint of implementation, as well as on implementation results and proposed approaches of future action plans; and*
- (c) *requested the Director-General to take into consideration its guidance in pursuing the ILO's mandate to promote gender equality in the implementation of the ILO Strategic Plan for 2018–21 and the two corresponding programme and budgets, and in facilitating extra-budgetary resources.*

(GB.332/INS/6, paragraph 23.)

Seventh item on the agenda

Review and possible revisions of formats and standing orders for meetings

([GB.332/INS/7](#))

199. *The consideration of this item and the related decision were deferred to a later session of the Governing Body.*

Eighth item on the agenda

Follow-up to the resolution concerning remaining measures on the subject of Myanmar adopted by the Conference at its 102nd Session (2013)

([GB.332/INS/8](#))

200. *A Government representative of Myanmar welcomed the recognition of his Government's efforts to promote and protect labour rights in Myanmar, particularly in relation to forced labour. He was pleased to announce that the Supplementary Understanding and a Memorandum of Understanding and associated Action Plan for the Elimination of Forced Labour had been extended on 22 January 2018.*
201. Myanmar was ready to resolve the remaining cases of under-age recruitment, and the number was decreasing. Legal action was being taken against perpetrators, with 87 military officers and 342 other ranks punished under the Penal Code and Defence Services Act since 2006. In addition, 8,998 seminars on forced labour and under-age recruitment had been conducted in military establishments between 2012 and 2018. The UN Country Task Force on Monitoring and Reporting and the ILO were also working together with the military to eliminate under-age recruitment; 877 under-age recruits had been returned to their parents since 2012.

- 202.** Turning to labour law reform, he noted that there were 15 domestic labour laws in force, 12 of which had been amended or enacted since 2012, including the Minimum Wages Act, the Employment and Skill Development Law and the Payment of Wages Law (2016). Regarding the Labour Organization Law, tripartite work was under way to address concerns expressed by the social partners in relation to its sectoral and geographical stipulations. The total number of registered labour organizations at all levels had reached 2,736. Proposed amendments to the Settlement of Labour Disputes Law had been submitted to the parliamentary Bill Committee on 11 January 2018 and negotiations with the social partners were under way; ILO technical assistance would be welcomed at the finalization stage.
- 203.** Tripartite work to promote labour rights was ongoing under the national tripartite body. Furthermore, the National Tripartite Dialogue Forum had endorsed the final version of the DWCP in January 2018. The DWCP focused on job creation, fundamental principles and rights at work, and social protection and occupational safety and health, and would be ready for launch by April 2018.
- 204.** Regarding the two convictions under article 505(b) of the Penal Code, Khaing Myo Htun had been released having served his sentence. Aung Ko Htwe was still awaiting trial and the Government would provide further information as the case progressed.
- 205.** Advances had been made towards eliminating child labour. Although it had not yet ratified Convention No. 138, the Government had amended the Shops and Establishments Law (2016) and the Factories Act 1951 to make 14 years the minimum age of employment. In early 2018, the National Committee on the Elimination of Child Labour had been reconvened, and a National Action Plan on Child Labour and a list of hazardous workplaces and activities were being prepared. Seafarers working outside Myanmar would also be better protected thanks to the ratification of the Seafarers' Identity Documents Convention (Revised), 2003 (No. 185).
- 206.** He concluded by reiterating his Government's commitment to cooperating with the social partners, the ILO and the international community. In the light of the progress made, he requested a review of the annual reporting requirement adopted by the Conference at its 102nd Session (2013).
- 207.** *The Worker spokesperson* welcomed the fact that, despite delays, the Government had extended both the Memorandum of Understanding and the Supplementary Understanding; it would have been useful if the Office had appended a copy of the agreements to document GB.332/INS/8. As to the statement in the document that that would allow the complaints mechanism and further cooperation on forced labour to continue during the transition to the DWCP, she asked whether the complaints mechanism would be halted once the DWCP was in operation, as there was no indication that an equivalent process would be established. More detailed information would have been appreciated on the content of the DWCP. As industrial relations were in the early stages of development, the DWCP should include training for lawmakers, civil servants and members of the judiciary on industrial relations, particularly freedom of association and collective bargaining.
- 208.** The tripartite consultations on reforms to the labour laws had made little substantive progress in two years. There was no real consensus-seeking and the social partners' positions during the consultations were not reflected in Government drafts, which conflicted with ILO standards. The Government's refusal to engage in negotiations regarding the adoption of legislation on collective bargaining to meet international standards was concerning. First, amendments to the Settlement of Labour Disputes Law covered primarily dispute resolution rather than setting standards for collective bargaining. The promotion of collective bargaining with non-unionized workers, where unions existed, would undermine industrial relations and ultimately have a detrimental impact on decent work. Furthermore, the draft

amendments did not address shortcomings in the functioning of the mediation and arbitration system. Second, proposed amendments to the Labour Organization Law did not fully comply with international labour standards, as geographic trade union structures were imposed, trade union plurality was restricted, and informal economy workers were denied the right to join or form unions. The number of trade unions would be halved and would no longer be registered, but acknowledged. Her group called on the Government to engage in effective tripartite negotiations to align the draft amendments with international labour standards. ILO support should be strengthened to include the provision of legal advice on the draft laws.

- 209.** As to cases of forced labour, the Office document did not provide information on how complaints had been handled. As the Governing Body had discussed the Government's failure to prosecute such cases at its previous session, she requested further information. The new case of imprisonment of an activist who had spoken out about forced labour was a serious breach of the Supplementary Understanding and called into question the Government's commitment to raising awareness of forced labour.
- 210.** She reiterated the Workers' concern about the military violence against the Rohingya people, which included extrajudicial killings, enforced disappearances, torture and inhumane treatment, and rape and other forms of sexual violence. Discussions in the Human Rights Council had revealed the Government's refusal to collaborate further with the Special Rapporteur on the situation of human rights in Myanmar. Her group urged the Government to end the military violence against the Rohingya people and to cooperate with the UN mechanisms to redress the situation.
- 211.** Regarding the draft decision, she proposed amending paragraph 18(a) to recognize that progress had been made on some, but not all, issues. Paragraph 18(b) should be amended to "urges the Government to engage in the process of law reform". As to paragraph 18(e), she sought clarification that, if reporting to each session of the Governing Body should cease, yearly reporting on forced labour cases would remain a requirement.
- 212.** *The Employer spokesperson* noted progress made in Myanmar towards the elimination of forced labour, and the cooperation with the ILO to that end. There was an urgent need and international pressure on the Government to manage the Rohingya crisis; the Government should continue cooperation with the UN with a view to achieving lasting peace, security and economic stability in the country.
- 213.** The information requested by the Employers on cases of under-age recruitment that had occurred before the Supplementary Understanding was first signed in 2007 was appreciated. As to the priority areas of the new DWCP, his group welcomed the first, on job creation with a focus on vulnerable populations, but was concerned about the second, which narrowly focused on labour law and neglected broader labour market governance, which was essential for a country in transition. While legislative reform was important, employers in Myanmar had stressed the need for better implementation of existing legislation to ensure the rule of law, which was essential for business to operate. From the Myanmar employers' perspective, the labour law reform should contribute to employers' productivity and competitiveness, respond to the needs of diverse employers, support job creation and create confidence in institutions. Also of concern was the lack of clarity in the Labour Organization Law about the formation of employers' organizations. The amendments to the Law must address that issue and provide for regulations to clarify the establishment and operation of employers' organizations in Myanmar. A further concern of the Employers was the need to build capacity and strengthen institutional structures to enable the introduction of specific standards on the formation of trade unions. Most importantly, social peace should be promoted among all relevant parties in the country.

214. He called upon the Office to continue to build the currently limited capacity of the constituents, taking into account their distinct functions in the labour market. His group hoped to see continued progress until the situation in Myanmar could be removed from the ILO agenda. He supported the draft decision, and could endorse the amendment proposed by the Workers' group.
215. *Speaking on behalf of the EU and its Member States*, a Government representative of Bulgaria said that the following countries aligned themselves with the statement: the former Yugoslav Republic of Macedonia, Montenegro, Albania, Bosnia and Herzegovina, Norway and Georgia. She welcomed the progress in improving labour rights, while expressing deep concern about reports of serious human rights violations in the country, and the deterioration of the security and humanitarian situation in Rakhine State. The EU and its Member States would continue to address those issues as part of their political engagement with Myanmar and in multilateral forums. She welcomed the renewal of the Supplementary Understanding and Memorandum of Understanding. It was laudable that an agreement had been reached between the ILO and the Government, after consultation with the social partners, regarding the handling of pre-2007 cases of forced labour. The additional 78 complaints received since September 2017 within the scope of the Supplementary Understanding, including two cases of reprisals against complainants in forced labour cases, were a matter of particular concern.
216. The EU was actively participating in the Initiative to Promote Fundamental Labour Rights and Practices in Myanmar and had funded the third Stakeholders' Forum on Labour Law Reform. She applauded the steps taken by the Government to align its labour law with international labour standards and the two bills to be presented to Parliament. She encouraged the Government to continue to make progress by swiftly implementing the roadmap of labour law reform. Some important amendments still had to be made to the Labour Organization Law and the Settlement of Labour Disputes Law, such as removing sectoral and geographical restrictions and minimum membership requirements that would impede the right of unions to function properly. She welcomed the finalization of the DWCP and its coverage of freedom of association, forced labour and child labour, as well as its mainstreaming of gender issues. The Office's involvement and provision of technical assistance to the country was commendable. She supported the draft decision, and could accept the Workers' proposed amendment.
217. *Speaking on behalf of ASEAN*, a Government representative of Thailand said that Australia aligned itself with the statement. He congratulated Myanmar on the extension of the Supplementary Understanding and agreement to the Memorandum of Understanding and associated Action Plan on the Elimination of Forced Labour, and welcomed the Government's endorsement of the DWCP following tripartite negotiations. He encouraged ILO member States to provide support for the implementation of the DWCP, and Myanmar to continue its labour law reform process through tripartite dialogue. He called on the international community to continue to assist the Government in promoting and protecting labour rights and enhancing social and economic development. He supported the draft decision.
218. *A Government representative of India* noted the positive steps taken by the Government of Myanmar through tripartite dialogue to advance labour law reform and review the minimum wage. He welcomed the extension of the Supplementary Understanding and agreement to the Memorandum of Understanding and associated Action Plan on the Elimination of Forced Labour, as well as the tripartite endorsement of Myanmar's first DWCP. The ILO and the international community should continue to support and extend technical assistance to the Government of Myanmar in its efforts to eliminate forced labour and promote decent work.

- 219.** *A Government representative of Japan* welcomed the significant progress made in some areas, in particular the signing of the agreements on the elimination of forced labour. He appreciated the Government's efforts to promote continued labour law reform and tripartite social dialogue. As Myanmar was an important partner for Japan, his Government would seek continued support for the country to ensure fundamental rights at work. He supported the draft decision.
- 220.** *A Government representative of the United States* welcomed the renewal of the Supplementary Understanding and agreement to the Memorandum of Understanding and associated Action Plan on the Elimination of Forced Labour, as well as the agreement to refer any new pre-2007 cases of under-age recruitment to a high-level working group to allow the complaints mechanism under the Supplementary Understanding to continue to function as before.
- 221.** Both the civilian and military authorities bore responsibility for the elimination of forced labour, and the military must renew and strengthen its cooperative agreement with the ILO to eliminate forced labour throughout the country and ensure its implementation. The Government must ensure that victims of forced labour received appropriate legal protection and that perpetrators were prosecuted. The Government of the United States was deeply concerned by reports of reprisals against complainants in forced labour cases, and urged the Government of Myanmar to release Aung Ko Htwe, who was imprisoned for talking about forced labour and the use of child soldiers, as well as to take meaningful action to prosecute perpetrators of forced labour and under-age recruitment.
- 222.** She encouraged the Government and social partners to make progress in reforming freedom of association legislation, and urged the Government, including Parliament, to respect the consultation process through the National Tripartite Dialogue Forum and give full consideration to any resultant proposed legislative amendments. The ILO should step up technical assistance to ensure that legislators had the technical advice necessary to advance a strong legal framework in line with international labour standards. She welcomed the Forum's endorsement of the DWCP and supported its launch even as work on forced labour continued.
- 223.** She noted that subparagraph (e) of the draft decision no longer required Myanmar to report on specific cases of forced labour and that no mention was made of any further discussions. As forced labour was still continuing, she requested clarification on whether discussion of the situation in Myanmar would be placed on the agenda of the 335th Session of the Governing Body (March 2019), pursuant to the 2013 Conference resolution. If so, she supported the draft decision and also the amendment proposed by the Workers.
- 224.** *A Government representative of China* noted the progress made by Myanmar in eliminating forced labour since the previous session of the Governing Body, including the extension of the Action Plan to ensure the transition to the DWCP. His Government urged the Office to continue to provide technical assistance to Myanmar to end forced labour, and called on members of the international community to support the Government in that effort. He supported the draft decision.
- 225.** *A Government representative of Cuba* recognized the progress made by Myanmar since the previous Governing Body session, and encouraged the Government to continue its efforts to strengthen tripartite dialogue and cooperate with the ILO. Her Government supported measures and programmes that promoted technical assistance and provided governments with opportunities to solve issues and act within a positive environment.

226. *The Worker spokesperson* asked the Employer spokesperson whether he meant that capacity building should take place before the application of standards in national law. She stated that freedom of association was a universal, fundamental right, and no system should decide whether a country had the appropriate capacities to allow exercise of that right.
227. *The Employer spokesperson* replied that that was indeed his group's position.
228. *A representative of the Director-General (DDG/MR)* clarified that subparagraph (e) of the draft decision referred to the lifting of the additional reporting requirement imposed by the November 2017 decision of the Governing Body. The 2013 Conference resolution requesting the Director-General to submit a report to the March Governing Body sessions continued in force until either the elimination of forced labour or an alternative resolution from the Conference.
229. He echoed the positive sentiment expressed by a number of delegates on the continued cooperation and capacity development of the social partners and the Myanmar Government. With regard to the transition to the DWCP, there was a specific provision for the institutionalization of the national mechanisms for the handling of forced labour complaints. The intention was for those mechanisms to be developed further through the DWCP. Moreover, development of the DWCP had been very much bottom-up based on priorities jointly agreed upon between the social partners and the Government.
230. In response to comments on the slow progress of labour law reform, the process was difficult but there was a strong level of tripartite commitment. Through the Liaison Office, the ILO was engaging with members of Parliament, particularly those on the relevant parliamentary committee. There was still a long way to go to achieve compliance with international labour standards; the ILO was providing technical support to the project, together with funding from a number of member States, and was actively campaigning for renewed funds.
231. *A representative of the Director-General (ILO Liaison Officer for Myanmar)* expressed his appreciation for the cooperation of the Government and the workers' and employers' organizations in Myanmar. The DWCP provided a strong basis for progress. The technical work of labour law reform needed to be reinforced with capacity building, which was recognized in the DWCP and the Labour Market Governance Programme. One positive step taken by the National Tripartite Dialogue Forum was to develop a roadmap for the DWCP. A curriculum and training system for Government, workers and employers on freedom of association, collective bargaining and industrial relations would be developed and operationalized in the next year with the support of the International Training Centre in Turin. As to the Workers' concern about the compatibility of the labour law amendments with international labour standards, he emphasized that the Government and Parliament had indicated their intention to comply with international labour standards, and had invited the continued technical assistance of the ILO. Parliamentarians had before them a comprehensive set of recommendations arising from the tripartite process which addressed many of the concerns raised, as well as comprehensive comments from the ILO on compatibility with international labour standards. The ILO would continue to provide technical assistance on the proposed legislative amendments.

Decision

232. *Having considered the report submitted by the Director-General, the Governing Body:*
- (a) *noted the significant progress made on some of the issues referred to in the decision taken at its 331st Session (October–November 2017);*

- (b) urged the Government to engage in the process of labour law reform to promote freedom of association through genuine and effective tripartite dialogue and in line with international labour standards;*
- (c) welcomed the tripartite negotiation and endorsement of a Decent Work Country Programme in which the elimination of forced labour is included as a core component, and encouraged member States to support its implementation;*
- (d) welcomed the extension of the Supplementary Understanding and agreement to the Memorandum of Understanding and associated Action Plan on the Elimination of Forced Labour until 31 December 2018; and*
- (e) decided that the reporting to each Governing Body session on cases of forced labour, as referred to in its November 2017 decision, would no longer be required.*

(GB.332/INS/8, paragraph 18, as amended by the Governing Body.)

Ninth item on the agenda

Complaint concerning non-observance by Guatemala of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), made by delegates to the 101st Session (2012) of the International Labour Conference under article 26 of the ILO Constitution – Information on progress achieved (GB.332/INS/9(Rev.))

233. *The Special Representative of the Director-General in Guatemala* said that, following the appointment of a chairperson, the National Tripartite Committee on Labour Relations and Freedom of Association was shortly expected to finalize the composition of its subcommittees, notably those relating to labour law reform, dispute settlement and the follow-up of the roadmap. It was vital that all members of the National Tripartite Committee should participate, with the support of a technical secretariat provided by the Ministry of Labour and Social Welfare, and the Governing Body should be kept informed of progress made and given the opportunity to consider the Committee's report in June 2018. An agreement had been reached on a proposal to amend the provisions of Decree 71–86 concerning the trade union rights of public sector workers with temporary contracts and special public sector schemes, and on the list of essential services in which strike action could not be carried out. Further discussions were needed on the establishment and functioning of industrial trade unions, and on the rules for voting on strikes. In Guatemala, it was clear that social dialogue was seen as the way to reach consensus on legislation and practice, as well as settle disputes between employers and workers and resolve the remaining issues in the roadmap. The preparation of the draft code of labour procedure represented an opportunity to remove legal obstacles to the actual implementation of court rulings, including reinstatement orders, and create a legitimate and effective instrument. Although much work remained to be done, he was certain that the understanding between the sectors

could be consolidated through social dialogue, tripartism and good faith. Regardless of the decision taken, the Office would continue to provide support and technical assistance.

- 234.** *The Worker spokesperson* welcomed the establishment of the National Tripartite Committee, which demonstrated the sincere commitment of all social partners, and noted the constructive role played by the Special Representative of the Director-General in Guatemala. She urged the Government of Guatemala to grant legislative status to the National Tripartite Committee through the adoption of an act, and thereby guarantee its permanence. It was important to provide adequate resources to the Committee, which should urgently prioritize full implementation of the roadmap, with the Office's assistance.
- 235.** While acknowledging that some progress had been made in tripartite discussions on the reform of labour law, she expressed regret regarding the failure to table before Congress a bill ensuring the conformity of national legislation with Conventions Nos 87 and 98, despite the ILO's helpful facilitation and the serious efforts to reach agreement through compromise. In particular, no agreement had been reached on the legislation relating to the minimum number of workers needed to establish a sectoral union. Worker representatives had accepted the government proposal in Draft Law 5199 to set the minimum number at 90 workers, but the Employers had rejected it, along with the Workers' subsequent concessions and offers to discuss the modalities of bargaining. The Employers had also rejected a proposal based on legislation passed in Costa Rica regarding the minimum number of workers required to call a strike, and had insisted on removing provisions for the closure of enterprises during strikes. In addition, Congress had not made any commitment to pass amendments as agreed, without modification, which was of serious concern given the changes it had made to weaken labour inspection law. She expressed further concern regarding the issues outstanding in the roadmap. Despite government promises, measures to protect trade union officials were woefully insufficient and many reinstatement orders were not implemented. However, she recognized the commitment and progress made, and called for all partners to find a way forward; disrupting the negotiations would jeopardize the advances already made. The Workers' group supported the draft decision.
- 236.** *The Employer spokesperson*, drawing attention to the strong commitment demonstrated by the Employers, Workers and the Government of Guatemala in efforts to resolve outstanding issues, welcomed the progress made by the National Tripartite Committee. The agreement reached regarding the modification of labour law to improve the framework of industrial relations was another positive achievement, although disagreements persisted; he clarified that the Workers had also rejected certain proposals from the Employers, including one regarding the right of workers to continue working during a strike. Despite those setbacks, however, further progress was possible. He commended the efforts undertaken by the Coordinating Committee of Agricultural, Commercial, Industrial and Financial Associations (CACIF) and noted the substantial progress reported by the Government regarding the roadmap, as well as the Government's efforts to strengthen the bodies responsible for ruling on acts of violence against trade unionists, and investigate and prosecute such cases. He called upon all stakeholders, and local employers and trade unions in particular, to recognize the progress made and continue negotiations in good faith, making concessions where necessary; that commitment would make it possible to close the case and follow further developments in Guatemala through other channels. The Employers' group supported the draft decision.
- 237.** *A Government representative of Guatemala* drew attention to the presence of a high-level delegation representing the three branches of government, which demonstrated Guatemala's commitment to the realization of standards and fundamental principles at work, and the completion of the roadmap. Indeed, the coordination of efforts between institutions was the only way of achieving concrete results. Two of the fundamental commitments made in the national tripartite agreement of November 2017 had been fulfilled, which should allow the

complaint against Guatemala to be closed during the present session. Firstly, the National Tripartite Committee had been created and a chairperson – from the workers’ sector – appointed. Secondly, agreed legislative proposals had been presented to Congress in March 2018 regarding: the reform of the Criminal Code, specifying that participation in legal strikes would not entail criminal consequences; and the amendment of Decree 71–86 in relation to the definition of essential services and the requirement to undergo arbitration, and the trade union rights of public sector workers with temporary contracts and special public sector schemes. She welcomed the participation of the ILO mission that had visited the country in the intense negotiations which had resulted in consensus on those legal reforms.

- 238.** With a view to making progress with respect to the other key indicators of the roadmap, the unit for the analysis of attacks against human rights defenders had been established through a ministerial agreement in January 2018; a total of 61 trade unions had been registered in 2017 and 15 in the first quarter of 2018; 21 collective agreements had been approved between January 2017 and March 2018; and the campaign on freedom of association and collective bargaining had been intensified in various ways, including through social media.
- 239.** *A Government representative of Guatemala* said that legislation to implement the roadmap had been drawn up by the Congressional Labour Committee based on tripartite social dialogue and the ILO’s recommendations. For example, legislation restoring the powers of the labour inspectorate to impose penalties had been adopted. Despite the slow discussions between the social partners, the tripartite agreement had been signed in November 2017, which committed the parties to work together in making legislative amendments to prevent the appointment of a commission of inquiry.
- 240.** *A Government representative of Guatemala* said that the judiciary had made progress in implementing key indicators of the roadmap. Those advances included the adoption of two agreements of the Supreme Court of Justice, introducing rules of procedure for the labour and social welfare courts, and regulations on the enforcement of labour court orders. In addition, the draft Code of Labour and Social Welfare Procedure had been finalized, in consultation with the stakeholders, and would be presented to the social partners prior to its adoption by National Congress.
- 241.** Improvements had also been made to streamline criminal proceedings relating to labour offences. Labour courts had been set up with several judges to hear cases that had been launched under the former procedures. Additional judges had been allocated to five other courts with a view to accelerating proceedings relating to labour offences. Other courts, including high-risk chambers, had been empowered to hear anti-union cases; provision had been made for many additional paralegal posts; and under a decision of the Supreme Court of Justice, courts could send certified reports in electronic format with a view to monitoring compliance with reinstatement orders. Continuing training was provided to judicial officials on various themes, including the ILO Conventions. Many cases had been digitalized to streamline labour proceedings and parties could track their cases online.
- 242.** *A Government representative of Guatemala* said that the Public Prosecutor’s Office, with a view to implementing the roadmap, was conducting investigations and prosecutions for crimes against trade union members, thereby helping to abolish impunity and ensure observance of Convention No. 87. Significant progress had been made in 86 cases involving the murder of trade unionists, and convictions upheld against the perpetrators in 21 of those cases. The increased effectiveness of investigations had enabled the Public Prosecutor’s Office to bring the perpetrators of two anti-union crimes to justice in record time: the first public oral hearing was planned regarding the murder of Brenda Marleni Estrada Tambito and prosecutions had been brought against four offenders in the case of the murder of Tomás Francisco Ochoa Salazar. The efforts of the Public Prosecutor’s Office had resulted in a considerable reduction in the rate of murders of trade unionists, and no such crimes had so

far been committed in 2018. The Public Prosecutor's Office was committed to continuing its work in that area and to strengthening the rule of law.

243. *A Government representative of Guatemala* said that the Constitutional Court had adopted a strategy to promote access to justice, particularly for vulnerable groups by, inter alia, monitoring the application of international standards and promoting training in the relevant institutions. To that end, the Court had issued judgments to strengthen labour rights for women trade unionists, persons forming trade unions and persons engaged in collective bargaining, among others.
244. *The Government representative of Guatemala* said that the Government's efforts were evident in the changes that had been made in the country. Her Government trusted that the Governing Body would recognize the real value of the progress made, which demonstrated its political will and the trust that it had built up with the constituents to work towards closing the complaint. Her Government did not support the draft decision as it considered that the conditions had been met to close the complaint. The lack of consensus concerning certain reforms, such as the establishment of industrial trade unions and the rules for voting on strikes, did not signify a setback but was rather due to the fact that the issue warranted further dialogue between the workers and employers, a position which the Government respected, as it prioritized social dialogue as the sole mechanism supported by the ILO to achieve the objectives in the roadmap. The intensification of social dialogue should not prevent closure of the complaint as it responded to the ILO's principles of dialogue and unbiased decision-making. The Government was committed to generating decent work for Guatemalans with the support of all stakeholders, who it called on to jointly develop a technical and financial cooperation programme to achieve that objective. Summing up, she urged the constituents to work together, in transparency and good faith, to generate decent work and ensure compliance with national and international labour standards for the Guatemalan people.
245. *The Worker spokesperson*, noting that assessments of the situation should be based on action rather than on words, said that the reports of progress conflicted with the observations of trade unions that murders of trade unionists were still taking place and that there was a failure to investigate some of those cases. The parties should focus on stepping up and consolidating progress and on reaching tripartite agreement in order to improve the situation of families and workers and bring justice. The Government still had to gain the trust of the trade unions by making real change on the ground. All stakeholders were fully committed to supporting the country with a view to closing the complaint and she therefore trusted that the Governing Body would be able to conclude its examination of the article 26 complaint in June 2018.
246. *Speaking on behalf of a significant majority of governments from Latin America and the Caribbean*, a Government representative of Paraguay welcomed the progress made under the national tripartite agreement to step up efforts to implement the roadmap. Such progress included, in particular, the establishment of the National Tripartite Committee. The meetings of the Committee had notably resulted in the presentation of legislative amendments to the National Congress on 9 March 2018. The Committee should continue to provide the opportunity for constructive, participatory dialogue to make progress in fulfilling the roadmap and identify lasting solutions for the implementation of ILO Conventions. The Government's goodwill, since the submission of the complaint, had been demonstrated through the substantial progress made, such as the creation of specific mechanisms for the application of Convention No. 87 and forums for tripartite dialogue. The involvement of all stakeholders in the two ILO country missions was laudable, and the Office should continue providing technical assistance to the country. The activities carried out under the key indicators of the roadmap should be assessed objectively with a view to closing the article 26 complaint. His group trusted that the Government would continue implementing the roadmap with the technical and financial support of the relevant stakeholders.

247. *Speaking on behalf of the EU and its Member States*, a Government representative of Bulgaria said that Montenegro, Albania, Bosnia and Herzegovina, and Norway aligned themselves with the statement. She welcomed the continued progress made in Guatemala on social dialogue and the involvement of the International Trade Union Confederation (ITUC) and the International Organisation of Employers (IOE). The recent creation of the National Tripartite Committee was an unprecedented positive development in Guatemala and an important milestone towards implementation of the roadmap. She encouraged the Government and the social partners to reach an agreement on the outstanding issues such as the right to strike in the private sector and the establishment of industrial trade unions. Efforts to fully implement the roadmap should continue, in particular with regard to the protection of union officials, the investigation of trade unionists' murders and the prosecution of the perpetrators. She called on the Government to step up efforts in those areas and provide an exhaustive report of its actions. She commended the work undertaken by the Special Representative of the Director-General in Guatemala. The Government had a real opportunity to fulfil its commitments before the next session of the Governing Body, and she looked forward to the finalization of draft labour legislation and a progress report on the roadmap. The EU would continue to support Guatemala in its efforts to comply with ILO Conventions. She supported the draft decision.
248. *A Government representative of the United States* commended the work of the social partners, the ILO and the Special Representative of the Director-General in Guatemala in facilitating social dialogue and the concrete progress that had been made, in particular the establishment of the National Tripartite Committee. She highlighted important accomplishments, but noted that significant challenges remained. Agreements by the social partners must translate into a legislative proposal that fully addressed the ILO's recommendations on freedom of association. She urged the Government and the social partners to build on the work they had begun, and called on the National Congress to enact the consensus legislation expeditiously. The Government should institutionalize the National Tripartite Committee through legislation, and the tripartite partners should take the additional steps needed to enact and implement legislative changes, which would weigh heavily in favour of closing the complaint. She supported the draft decision.
249. *A Government representative of Canada* welcomed the national tripartite agreement and the meaningful engagement of the National Tripartite Committee, as well as the active support from the Office, the ITUC and the IOE since the Governing Body's November 2017 session. Challenges remained, however, including in respect of combating violence against trade unionists and implementing labour legislation reforms, and she called for ongoing cooperation and further progress in both law and practice.

Decision

250. *In view of the information communicated by the Government of Guatemala and the information provided by the Office, taking due note both of the significant progress achieved in the implementation of the national tripartite agreement of November 2017 and of the efforts under way in this respect, on the recommendation of its Officers, the Governing Body:*
- (a) *urged the Government, together with the Guatemalan social partners, with the support of the International Organisation of Employers and the International Trade Union Confederation, and with the technical assistance of the Office and of its representative in Guatemala, to continue to devote all the efforts and resources necessary to achieve the complete implementation of the national agreement aimed at settling the unresolved matters in the complaint and the roadmap;*

- (b) *encouraged the international community to contribute to the implementation of the national agreement and to the corresponding technical assistance of the Office by providing the necessary additional resources; and*
- (c) *deferred the decision on the appointment of a commission of inquiry until its 333rd Session (June 2018).*

(GB.332/INS/9(Rev.), paragraph 30.)

Tenth item on the agenda

Complaint concerning non-observance by the Bolivarian Republic of Venezuela of the Minimum Wage-Fixing Machinery Convention, 1928 (No. 26), the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), made under article 26 of the ILO Constitution by several delegates to the 104th Session (2015) of the International Labour Conference ([GB.332/INS/10\(Rev.\)](#))

251. *A Government representative of the Bolivarian Republic of Venezuela* asked whether the Chairperson could give the floor first to the social partners.
252. *The Worker spokesperson and the Employer spokesperson* said that it was important to hear from the Government of the Bolivarian Republic of Venezuela before the social partners made their statements. She obtained confirmation from the Chairperson that this was the standard procedure.
253. *A Government representative of the Bolivarian Republic of Venezuela* recalled that this had not been the procedure followed during the discussion of a similar case earlier that week, which is why he had made this request. Noting that his Government's arguments would be presented in a way that was respectful but clear, he said that it was regrettable that the complaint had been influenced by the political interests of some members of the Governing Body, which compromised the transparency of the proceedings and the actions of the ILO by linking it to particular interests far removed from the world of work. He noted that it was the Officers of the Governing Body that had cancelled the planned ILO high-level mission, despite the Government's assurances that all the necessary conditions for the mission were in place. That mission could still go ahead if the Officers were willing to fulfil the mandate of the Governing Body. Noting that the document contained some gaps that created doubts and confusion, he said that he recognized the importance of safeguarding the autonomy of the mission, but that autonomy should not be confused with arbitrariness. The Officers' autonomy in determining the agenda for the mission should have been linked to the Governing Body's decision, and the meetings requested should have been with parties relevant to the case and not with political leaders that did not support the Government. The Officers had not refuted the reasoning of the Government, but unfortunately had still cancelled the mission.

- 254.** He wondered whether an answer could now be provided as to the relevance to the complaint of the planned meetings with the Episcopal Conference of Venezuela, the Venezuelan Association of University Presidents, the Centre for Dissemination of Economic Knowledge about Freedom, and the Press and Society Institute of Venezuela. The Episcopal Conference of Venezuela was a religious organization that was radically opposed to the Government and had no bearing on the complaint. If the mission did not meet with that organization, it would have more time to meet with relevant employers' and workers' organizations. The other three organizations had significant party political interests in opposition to the Government; they would not seek to provide solutions and would not contribute to fruitful social dialogue during the mission. With regard to the trade unions, the Government had complied with the Basic Act on Labour and Men and Women Workers, and thus had encouraged the Officers to meet with duly registered workers' organizations. The same decision had been made during the 2014 tripartite high-level mission, but members of that mission had still met with non-registered organizations outside the official agenda. As the Government had not made any express objection, the planned 2018 mission could have followed the same course of action.
- 255.** He hoped that any decision taken in relation to the complaint would not be based on political interests, which would damage the sovereignty of his country. The Government's goodwill should not be tarnished by the actions of the Venezuelan Federation of Chambers and Associations of Commerce and Production (FEDECAMARAS) or of those who had presented the complaint. The Government had repeatedly sought to establish contact with FEDECAMARAS, despite its anti-democratic tendencies. FEDECAMARAS, which had the support of the Employers' group, had consistently spoken out against the Government, and had even participated in the coup in 2002, violating democracy and the Constitution. He recalled that FEDECAMARAS had been invited in 2017 to participate in a tripartite meeting in Geneva and a tripartite round table in Venezuela, but it had chosen not to attend. Furthermore, FEDECAMARAS had not participated in discussions on the Law on Workers' Production Boards; it was therefore not surprising that some of the information provided in paragraph 9 of document GB.332/INS/10(Rev.) was incorrect. Regrettably, members of FEDECAMARAS were also conspiring to sabotage local, regional and presidential elections scheduled to be held on 20 May 2018. Despite those events, the Government continued to insist that social dialogue was a viable solution to the complaint.
- 256.** The Government considered that the complaint had violated the universal legal principle that no party to a dispute should also serve as judge in the same case, as many members of the Employers' group currently participating in the Governing Body had also signed the complaint. It should be recalled that the principle in question had been raised by the Government in a similar case in 2005, and that the ILO Legal Adviser had at the time confirmed that the principle had to be respected. Therefore, those members of the Governing Body should be prevented from participating in the current discussion. The Government had made an official request to the Director-General that the Government Vice-Chairperson of the Governing Body should refrain from participating, particularly in the light of his Government's clear opposition to the Government of the Republic of Venezuela. The Officers had not agreed to that request; however, it was not for the Officers to decide on whether an individual should refrain from participating in the discussion, since ethics, objectivity, transparency and legal certainty should come first. Whether or not to refrain from participation was a strictly personal action that should be considered and decided upon by the individual concerned.
- 257.** He asked the Legal Adviser to clarify whether the Officers of the Governing Body had the right to cancel a high-level mission organized pursuant to a Governing Body decision. The Government considered that the Officers had exceeded their mandate in that respect, particularly given the Government's assurances that all conditions for a successful mission

would be met and that there was no compelling reason for its cancellation. Thus, the Government considered that its rights were being undermined.

- 258.** In conclusion, he reiterated the Government's desire for dialogue. He categorically stated that the Government did not agree with the establishment of a commission of inquiry, which would undermine the dialogue the Government had initiated with FEDECAMARAS, with the support of President Maduro. He reaffirmed the Government's invitation to the high-level mission and called on the Governing Body to support that course of action, which was the appropriate approach for establishing the requested tripartite round table, strengthening social dialogue in the Bolivarian Republic of Venezuela, and addressing the issues raised in the complaint. He therefore did not support the draft decision, instead proposing that the Governing Body should decide to carry out the high-level mission.
- 259.** *The Employer spokesperson*, recalling the decision adopted at the 331st Session of the Governing Body, noted that the Government had been contacted with regard to the planned high-level mission. He noted that, according to the Government, it had not been possible to institutionalize the tripartite round table called for in the Governing Body's decision, which showed a clear disregard for that decision. The proposed agenda for the mission submitted by the Officers had included meetings with public authorities, FEDECAMARAS, other employers' and workers' organizations and leaders from other social sectors. However, the Government had raised two sets of objections and had submitted a modified plan of work, removing three of the nine workers' organizations with which the mission had planned to meet – and with which the previous 2014 high-level mission to the country had met on the basis that they were with organizations that were critical of the Government. The modified plan also did not foresee any meetings with leaders from other social sectors. In response, and while preparing to leave for the mission, the Officers had assured the Government that the agenda was within the mandate of the mission and had called on the Government to confirm that undertaking the planned meetings would not give rise to any difficulties in carrying out the mission. In the absence of confirmation, the Officers had unanimously concluded that the mission could not be carried out and it had therefore been cancelled.
- 260.** He expressed concern regarding the most recent violations reported by FEDECAMARAS, notably the absence of consultation regarding legislative measures with an impact on economic, social and labour policy, which should have been the subject of tripartite discussions. There had also been an increase in violence and intimidation against FEDECAMARAS leaders, including a particularly vitriolic social media campaign. Those actions demonstrated, once again, the Government's lack of willingness to comply with the ratified ILO Conventions, the recommendations of the supervisory bodies, or the decisions of the Governing Body. It should also be noted that the UN High Commissioner for Human Rights had recently encouraged the Human Rights Council to consider mandating a commission of inquiry to investigate human rights violations in the country.
- 261.** The group still held the same views it had expressed at the previous session. The Government had been given a last chance to show its willingness to cooperate, but had responded with manipulation and false promises, and had missed the opportunity. The Maduro Administration had gradually eroded human rights guarantees and checks on its power, while the country's Supreme Court routinely failed to demonstrate independence, endorsing government abuses and stripping the National Assembly of its powers. Furthermore, 317 political prisoners remained incarcerated. The regime had institutionalized repression through the Constituent National Assembly, which had been imposed by decree against the will of the people. In short, the country was facing one of the worst forms of human rights abuses as well as a humanitarian crisis.
- 262.** There had been a significant deterioration in the rule of law and civil liberties, and it was highly regrettable that the high-level mission had not gone ahead as planned. The immediate

establishment of a commission of inquiry would assist in ensuring compliance with the Minimum Wage-Fixing Machinery Convention, 1928 (No. 26), Conventions Nos 87 and 144, and in efforts to generate more and better decent and productive jobs, to pave the way for long-lasting peace and to ensure the rule of law and democracy that were essential for the economic and social well-being of the country and the exercise of civil and political liberties. He therefore called upon the members of the Governing Body to appoint a commission of inquiry under article 26 of the ILO Constitution and make the financial arrangements to enable the Commission to start its work without delay.

263. *The Worker spokesperson* expressed her regret that the high-level mission had not taken place. Recalling the extensive discussions that had taken place at the previous session to reach an agreement between all the parties with a view to making progress in this case, she reiterated her group's support for tripartism and social dialogue. From the outset, it had been agreed that all members of the high-level mission had to be able to work with independence and have the freedom to meet all relevant actors, notably employers and workers, and that the Government of the Republic of Venezuela should not decide with which unions or employers the mission could meet. In addition, the mission had wished to meet representatives from civil society in order to gather background information. It had also been agreed that the mission should not be politicized, and she reminded the members of the Governing Body, particularly the Employers' group, that they should observe the same rule. The Workers' group had been especially concerned about being prevented from meeting with unregistered trade unions. Even if informal meetings with such unions had been held, the input they provided could not have been included in the official report. Given that the previous mission in 2014 had been able to meet with those unions as part of the official programme, that outcome was particularly disappointing. Furthermore, in 2014 the Government had promised to register one of the trade unions concerned, the Independent Trade Union Alliance (ASI), but had failed to do so. Every effort had been made to find an acceptable solution to allow the high-level mission to go ahead. Her group was deeply disappointed that the Government of the Republic of Venezuela had decided not to cooperate.

264. She said that, while her group was guided by the principles of the ILO, the Employers' group had not treated complaints filed by workers with the same principled attitude. One example was the article 26 complaint against Guatemala, which had been pending for over six years and concerned serious violations of freedom of association, including murders. Meanwhile, in the cases of Qatar and Fiji, the Workers' group had been unable to win support for a commission of inquiry, and had been forced to use other mechanisms to apply pressure. Having said that, the majority of the Workers' group supported the draft decision in the present case, given the evidence presented and the clear lack of engagement by the Government of the Republic of Venezuela. The Workers were not, however, supporting the Employers per se, but rather the principles and supervisory system of the ILO. The commission of inquiry was an investigation, not a sanction. While the Workers' group deplored the attacks on and intimidation of FEDECAMARAS members, government measures in relation to the pricing of consumer goods and so-called "economic warfare" did not fall within the scope of the commission of inquiry. Her group therefore supported the establishment of a commission of inquiry on the strict condition that it would only examine matters relating to Conventions Nos 26, 87 and 144, and she asked the Office to confirm that it would indeed be the mandate of such a commission. The draft decision would show the Government of the Republic of Venezuela, and all governments, that the ILO was prepared to cooperate in a tripartite manner within its own framework to advance the protection and enforcement of fundamental principles and rights at work, but that it would also take action if such cooperation was not reciprocated.

265. *Speaking on behalf of the EU and its Member States*, a Government representative of Bulgaria said that Montenegro, Albania, Bosnia and Herzegovina, Norway and Georgia

aligned themselves with her statement. Highlighting previous efforts to reach a compromise solution, she expressed deep regret that the Government of the Republic of Venezuela had not taken up the opportunity of the high-level mission, and had sought to impose further conditions regarding the agenda. It was particularly disappointing that three trade unions had been denied the right to meet with the mission. She expressed concern that, despite the Governing Body's repeated calls for social dialogue, employers continued to face acts of intimidation and retaliation, and that FEDECAMARAS was still excluded from dialogue. The difficult political and economic situation was no excuse for failing to set up a minimum basis for social dialogue or implement Governing Body decisions; every effort had been made to provide an opportunity to show willingness to cooperate, but the Government had not implemented any of the recommendations made by the Governing Body. She supported the draft decision.

- 266.** *A Government representative of Mexico*, speaking also on behalf of Argentina, Brazil, Canada, Chile, Colombia, Costa Rica, Honduras, Panama, Paraguay and Peru, said that it was regrettable that the high-level mission had not been carried out. Delaying the appointment of a commission of inquiry would prolong a process which had thus far made no progress, despite the continuous efforts of the Governing Body. She therefore supported the appointment of a commission of inquiry and the financial implications, with a view to resolving the situation and safeguarding the rights enshrined in the ILO Conventions.
- 267.** *A Government representative of the United States* said that, despite the Government's agreement in November 2017 to take meaningful action to address the outstanding allegations in the complaint, it had intensified its refusal to cooperate by prohibiting the high-level mission from meeting with three trade unions and leaders from other social sectors, and had failed to institutionalize a tripartite round table. No progress had been made on addressing issues raised in the original complaint, including acts of harassment against FEDECAMARAS. The Government had had sufficient time to implement the recommendations of the ILO supervisory bodies, but had demonstrated no intention of doing so. Every effort had been made to encourage the Government to comply with its obligations, but to no avail. The only option was to appoint a commission of inquiry. He therefore supported the draft decisions.
- 268.** *A Government representative of Myanmar* said that the cancellation of the mission owing to disagreements in relation to the agenda was a matter of concern. However, he welcomed the Government of the Republic of Venezuela's open invitation to the high-level mission and its conviction that the visit would strengthen industrial relations and lay the foundations for the tripartite round table. Building mutual confidence was key to finding solutions, and any approaches that would polarize the parties should be avoided. He encouraged the Government and the Office to continue to engage in finding a mutually acceptable solution.
- 269.** *A Government representative of Uruguay* said that it was regrettable that the high-level mission had not taken place. Given the history of the case, a high-level mission remained the most suitable approach to ensure progress, as it would generate less tension and allow for an in situ examination of the substance of the complaint with the social partners. The measures adopted by the Governing Body should aim at remedying the situation rather than imposing sanctions. A deadline should be set for the Officers and the Government to establish an agenda and date for a mission before the next session of the Governing Body. She called for transparent dialogue and cooperation among the parties and invited the Government to provide all necessary facilities so that the high-level mission could take place, in full observance of its mandate and autonomy, as well as of ILO fundamental Conventions and principles.
- 270.** *A Government representative of the Russian Federation* said that all channels for the fulfilment of a compromise solution had not yet been exhausted, and that the procedures

under article 26(2) of the ILO Constitution should be continued. More time was needed to reach agreement through tripartite consensus. There were insufficient grounds for the appointment of a commission of inquiry, which would be a costly measure. He asked whether the necessary funds were available for the commission of inquiry within the Programme and Budget for 2018–19.

- 271.** *A Government representative of the Islamic Republic of Iran* said that the Government had shown willingness to resolve the issues raised in the complaint and to reach an agreement with the employers as well as to accept the high-level mission. He called on the Government and the Office to continue to discuss the agenda of the mission with a view to enabling the mission to be undertaken in the near future. He did not consider it appropriate to appoint a commission of inquiry. He encouraged the Government to continue its efforts to address the issues fully and called on the Office to provide assistance. He agreed that the Governing Body should refrain from politicizing the matter.
- 272.** *A Government representative of Brazil* said that there was no viable alternative to the appointment of a commission of inquiry. That instrument would serve to generate genuine social dialogue to improve the lives of the workers and employers, in conformity with the country's international obligations. It was her understanding that, in the past, the appointment of a commission of inquiry had not been contingent on financial implications, that the necessary resources were available, and that if other funding methods were required after the biennium, member States' regular contributions to the ILO budget would not be increased as a result. On that basis, she supported both draft decisions.
- 273.** *A Government representative of Cuba* said that the Government of the Republic of Venezuela had been prepared for the visit of the high-level mission to enable a tripartite exchange on issues relating to the complaint, but that the Officers had added meetings to the agenda that were not foreseen in the Governing Body's decision, and that the mission had been cancelled unilaterally at the last minute. The high-level mission should be carried out without further delay, to ensure legal certainty and compliance with the Governing Body's decision that was based on tripartite consensus. Specific standards should be formulated for high-level missions to achieve greater transparency, objectivity and legal certainty. He called for procedural balance where all parties had equal opportunities and unilateral decisions were not imposed. He rejected the appointment of a commission of inquiry and the attempt to undermine the credibility of the ILO and its supervisory bodies by altering working methods and forgoing transparency for political ends. He did not support the draft decision.
- 274.** *A Government representative of India* said that she welcomed the Government of the Republic of Venezuela's openness to the high-level mission and its conviction that it would strengthen industrial relations and lay the foundations for the tripartite round table to resolve issues related to the complaint. The social partners in the country should heed the Government's calls for social dialogue and participate actively. The establishment of a commission of inquiry was unwarranted and would be counterproductive. The ILO and its member States should support the Government of the Republic of Venezuela in fulfilling its labour-related obligations and provide assistance.
- 275.** *A Government representative of Namibia* noted with concern the politicization of the case and the fact that the high-level mission had not taken place. The Government of the Republic of Venezuela had expressed its willingness to cooperate with the Organization by issuing a formal invitation to the ILO to send a high-level mission and scheduling meetings with FEDECAMARAS and other organizations. Social dialogue was the preferred means of solving the problems in the country, and the Officers should proceed with the high-level mission, based on discussion with the parties and a mutually agreed agenda.

276. *A Government representative of Ecuador* said that the situation should be resolved by national stakeholders through dialogue. He supported the Government's invitation to the ILO to organize a high-level mission at an appropriate date to meet with various tripartite actors and report back to the Governing Body on recommended future action. The appointment of a commission of inquiry could have a polarizing effect that could exacerbate political sensitivities and hamper dialogue. She called on the Government and all stakeholders to renew efforts to reach consensus on the issues that required joint action.
277. *A Government representative of China* said that, since the previous session of the Governing Body, the Government had participated actively in dialogue with FEDECAMARAS and other parties to establish a tripartite round table, had invited a high-level mission to visit and had demonstrated willingness to resolve the problems. Dialogue and development cooperation were the best approaches to address issues concerning the observance of Conventions. He called upon all parties to make further efforts to establish a tripartite round table, and hoped that the Office would provide technical assistance. He asked the Office for further information on the funding, and did not support the establishment of a commission of inquiry.
278. *A Government representative of Switzerland* supported the statement made by the EU. The continued lack of an institutional mechanism for social dialogue in the Bolivarian Republic of Venezuela was very concerning, and it was regrettable that the high-level mission had not been able to take place. He supported the establishment of a commission of inquiry and its financial implications.
279. *A representative of the Director-General* (Director, NORMES), in response to the Workers' question on the scope of the investigation, said that the commission of inquiry would be composed of three independent members who would carry out a full investigation of the complaint, verify the facts and make recommendations on measures to be taken to address non-compliance with ratified by the Government of the Republic of Venezuela Conventions Nos 26, 87 and 144. With regard to funding, there were no financial provisions for commissions of inquiry in the programme and budget. Costs would first be financed from savings under Part I of the budget for 2018–19 or, failing that, through the use of the provision for unforeseen expenditure in Part II.
280. *A Government representative of the Bolivarian Republic of Venezuela* said that his Government had never explicitly objected to meetings with trade union organizations, legal or not; indeed, the 2014 high-level mission had done so. He reiterated his Government's willingness to cooperate in any way to resolve the complaint, and thanked the governments that had voiced their support for the implementation of the November 2017 decision and their opposition to the establishment of a commission of inquiry. It was not the intention of his Government to question the integrity of the Officers of the Governing Body, but rather to question the authority of the Officers to override a decision that had been made by the Governing Body. He repeated his request to the Legal Adviser to clarify whether the Officers had the authority to revoke a decision taken by the highest administrative body of the ILO.
281. *A representative of the Director-General* (Legal Adviser) said that the procedure for examining article 26 complaints was not set out in any specific legal instrument, but was largely based on past practice. According to this well-established practice, the Officers of the Governing Body had been assigned a clear leading role, and therefore enjoyed special powers with respect to guiding the process and, in particular, exploring opportunities to make progress and ultimately achieve positive results. They also enjoyed discretion in discharging their responsibilities effectively and efficiently, which included the right to draw appropriate conclusions from the Government's refusal to cooperate fully, and thus the right to conclude that the conditions for an effective conduct of the high-level mission had not been met.

282. *The Employer spokesperson* expressed his appreciation to the Governing Body, particularly the Workers' group, in what had been a difficult discussion. The decision taken was not an easy one, but it was what was best for the Organization.
283. *The Worker spokesperson* said that she had met with the Government the previous week and it had not indicated its agreement to the meetings with the trade unions requested by the high-level mission, including the non-registered unions. In response to the governments that did not support the draft decision because they preferred social dialogue, she said that such an option had already been exhausted through extended negotiations during the previous Governing Body session. There was still hope that social dialogue would be possible, but in the face of the Government's non-cooperation, the ILO must not postpone taking action and should move forward. She expressed the hope that the commission of inquiry would result in the initiation of processes that would bring about progress, with the help of the international community. She therefore supported the draft decision.

Decision

284. ***On the recommendation of its Officers, deeply concerned with the lack of any progress with respect to its previous decisions, in particular as to the establishment of a social dialogue table and action plan, which it had urged the Government, for the last time, to institutionalize before the end of 2017, and regretting the impossibility to carry out the high-level mission it had recommended at its preceding session, due to the objections raised by the Government to the mission's agenda, the Governing Body decided that a Commission of Inquiry should be established, subject to the approval of the related financial implications set out in GB.332/INS/10(Add.).***

(GB.332/INS/10(Rev.), paragraph 13.)

285. *A Government representative of the Bolivarian Republic of Venezuela* said that the decision had been adopted without tripartite consensus. According to paragraph 46 of the Introductory note to the *Compendium of rules applicable to the Governing Body*, consensus was characterized by the absence of any objection presented by a Governing Body member as an impediment to the adoption of the decision in question. Moreover, his Government had argued in favour of implementing the decision of the Governing Body to conduct the high-level mission that was subsequently unilaterally cancelled by the Officers, and had repeated its invitation to the mission.
286. His Government opposed the decision and did not agree with the appointment of a commission of inquiry. Many other Government representatives had also voiced their opposition, but that had not been taken into account. There was a lack of objectivity and transparency in all aspects of the complaint, as well as a flagrant disregard of the universal legal principle that no one could be judge and party in the same case. Further, the appointment of a commission of inquiry, even if not a sanction, would undermine, rather than strengthen, the dialogue the Government had initiated with FEDECAMARAS in recent years.
287. The Government considered that aggression was being waged against the Bolivarian Republic of Venezuela, particularly by an imperialist government that considered his country to be an unusual and extraordinary threat. The ILO had not been spared from the aggression against his Government, in particular as expressed through the Employers' group and the actions of the Lima Group. It was regrettable that the response from the Legal Adviser was based on practice, rather than on the legality of the decision. Despite the

decision, his Government remained committed to constructive, sincere and transparent social dialogue, and did not accept the appointment of a commission of inquiry.

Financial implications of a commission of inquiry (GB.332/INS/10(Add.))

288. *The Worker spokesperson and the Employer spokesperson supported the draft decision.*

Decision

289. *Having decided to appoint a Commission of Inquiry concerning the Bolivarian Republic of Venezuela, the Governing Body further decided that:*

- (a) an honorarium at the rate of US\$350 per day would be paid to each member of the Commission of Inquiry; and*
- (b) the cost of the Commission, estimated at US\$756,701, would be financed in the first instance from savings that might arise under Part I of the budget for 2018–19 or, failing that, through the use of the provision for unforeseen expenditure, in Part II. Should that not prove possible, the Director-General would propose alternative methods of financing at a later stage in the biennium.*

(GB.332/INS/10(Add.), paragraph 4.)

290. *The Government Vice-Chairperson said that he categorically rejected the statements made by the Government representative of the Bolivarian Republic of Venezuela accusing him of a lack of objectivity and ethical responsibility in his duties as Government Vice-Chairperson and Officer of the Governing Body. In discharging his duties, he had always acted without any political motivation. The Officers had acted in strict adherence to the mandate of the Governing Body and ILO standards. Moreover, all conclusions and decisions had been unanimously agreed upon by the Officers. The decision of the Governing Body confirmed the credibility of the Organization, and had been adopted with the support of the Workers, the Employers and the majority of governments who had made statements.*

Eleventh item on the agenda

Reports of the Committee on Freedom of Association

291. *The consideration of this item and the related decision were deferred to a later session of the Governing Body.*

Twelfth item on the agenda

Report of the Working Party on the Functioning of the Governing Body and the International Labour Conference ([GB.332/INS/12](#))

292. *Speaking on behalf of the Africa group*, a Government representative of Nigeria thanked those who had spoken in favour of amending article 1(3) of the revised *Rules for Regional Meetings*. He called on all constituents to ensure that Regional Meetings were conducted in a spirit of cordiality, cooperation, mutual trust and understanding. He noted that some questions he had asked previously remained unanswered. First, if Regional Meetings were held every four years, he asked why article 1(1) of the revised *Rules* referred to meetings convened “from time to time” rather than specifying the time frame. Second, he asked whether the Governing Body was responsible for maintaining the “list of Members of each region” referred to in article 1(1), and whether that list would be revised each time a Regional Meeting was being planned. Finally, referring to article 10(3), he sought clarification on the procedure to be used by the Chairperson of a Regional Meeting to grant or decline permission to speak in plenary, with particular regard to observers. He expressed support for the draft decision contained in paragraph 36 of the document on the consolidated version of the *Rules for Regional Meetings* and the Introductory Note.

293. *A representative of the Director-General (DDG/MR)* said that, while Regional Meetings were in principle held every four years, sometimes those meetings were delayed or brought forward. The revised Introductory Note, which would be discussed at the November 2018 session of the Governing Body, referred to the normal practice of holding meetings every four years. The Governing Body did establish the list of Members of each region and would review it whenever it deemed appropriate. Regarding the granting of speaking rights to observers, he said that the rules were the same as for any meeting: the Chairperson used his discretion, typically taking into account the time available for additional interventions. Additional guidance could be provided in the Introductory Note if the Governing Body deemed it necessary.

Decisions

Composition of the Governing Body: Update on the status of ratification of the 1986 Instrument for the Amendment of the Constitution of the ILO

294. *The Governing Body:*

- (a) *decided that the matter should become a standing item on the agenda of subsequent March and November Governing Body sessions until the amendment entered into force;*
- (b) *requested the Director-General to continue promotional efforts for the ratification of the 1986 Instrument of Amendment, including through direct contacts with and visits, particularly to member States of chief industrial importance;*

- (c) *requested the Office to organize promotional campaigns on the sidelines of Regional Meetings; and*
- (d) *requested the Director-General to report at future Governing Body sessions on results obtained and feedback from Members concerned on the reasons that prevented or delayed ratification.*

(GB.332/INS/12, paragraph 7.)

Functioning of the International Labour Conference: Arrangements for the 107th Session (2018)

295. *Having examined the proposed arrangements contained in document GB.332/WP/GBC/2 and the tentative plan of work for the 107th Session (2018) of the Conference, the Governing Body proposed to the Conference to implement those arrangements, including the suspensions of provisions of the Standing Orders detailed in Appendix I of document GB.332/WP/GBC/2, at its 107th Session.*

(GB.332/INS/12, paragraph 16.)

Comprehensive review of the Standing Orders of the Conference: Progress report of the inter-sessional consultations

296. *The Governing Body took note of the progress report on the inter-sessional consultations concerning the comprehensive review of the Standing Orders and provided guidance on the next stages.*

(GB.332/INS/12, paragraph 19.)

Review of the role and functioning of the Regional Meetings: Consolidated version of the Rules for Regional Meetings and the Introductory Note

297. *The Governing Body decided to:*

- (a) *adopt the consolidated version of the Rules for Regional Meetings as amended during the discussions in the Working Party;*
- (b) *submit the consolidated version of the Rules for Regional Meetings contained in the appendix of document GB.332/INS/12 to the Conference for confirmation at its 107th Session (2018); and*
- (c) *request the Office to prepare for its 334th Session (October–November 2018) a revised version of the Introductory Note, taking into account the discussions in the Working Party.*

(GB.332/INS/12, paragraph 36.)

Thirteenth item on the agenda

Report of the Working Party on the Social Dimension of Globalization ([GB.332/INS/13](#))

298. *There was no discussion of this item.*

Fourteenth item on the agenda

Report of the Director-General ([GB.332/INS/14](#))

299. *The Worker spokesperson* welcomed the ratifications mentioned in the Report, especially the four new ratifications of the Protocol of 2014 to the Forced Labour Convention, 1930. Other countries should be encouraged to ratify that important instrument. She also welcomed the new ratifications of the Instrument for the Amendment of the Constitution of the International Labour Organization, 1986, which would be discussed again during the current session. Her group appreciated the new staff members appointed in Geneva and at other duty stations. She looked forward to the Governing Body resolving some outstanding issues in the spirit of dialogue and tripartism.

300. *Speaking on behalf of the Africa group*, a Government representative of Nigeria also welcomed the number of new ratifications, including that of the Protocol of 2014 to the Forced Labour Convention, 1930, by Namibia and the United Republic of Tanzania, and congratulated the Office on the two new ratifications of the Instrument for the Amendment of the Constitution of the International Labour Organization, 1986. However, despite the Office's laudable efforts to promote the ratification of that instrument to reflect the principles of social justice, equity, fair representation and equality of member States irrespective of race that it enshrined and ensure the inclusiveness of the ILO, a further 17 ratifications were required before it could enter into force, including three by countries of chief industrial importance.

301. He commended the Office on the number of valuable publications, documents and licences produced during the period under review, adding that publications should be disseminated more widely. Research works should involve ministries of labour, employers' and workers' organizations in member States and, also, subregional organizations, in order to harness ongoing work and labour market trends and ensure the complementarity and coherence of the ILO knowledge base. Lastly, he thanked the authors and contributors, and congratulated all those who had received appointments or promotions during the reporting period. The Director-General should continue to bear in mind the issue of under-represented States when filling future vacancies in all categories, in particular paying attention to States that conscientiously fulfilled their obligations to the Organization.

Decision

302. *The Governing Body took note of the report contained in document GB.332/INS/14.*

(GB.332/INS/14.)

Obituary: Mr Bingen de Arbeloa ([GB.332/INS/14\(Add.\)](#))

303. *An Employer member from Colombia*, speaking also on behalf of Latin American employers, said that his group was deeply saddened by the death of Mr Bingen de Arbeloa, an active former member of both the Governing Body and the Board of the International Training Centre of the ILO in Turin. Mr de Arbeloa had headed the Venezuelan Employers' delegation to the International Labour Conference for over 20 years, also serving on a number of occasions as spokesperson for the group of Latin American employers, a role in which he had made a noteworthy contribution to the discussion and adoption of the Occupational Safety and Health Convention, 1981 (No. 155). In addition to having been an active member of the Federation of Chambers and Associations of Commerce and Production of Venezuela (FEDECAMARAS) for more than 35 years at both national and regional levels, he had participated actively in defence of human rights and believed firmly in democracy. His legacy as an example of steadfastness, determination and remaining true to one's values was a source of pride for the IOE and the Governing Body's Employers' group, which had benefited from his invaluable contributions.
304. *The Worker spokesperson* paid tribute to Mr de Arbeloa as a pillar of the Venezuelan business sector and a prominent Employer leader, lawyer, political analyst and academic. He had promoted democracy, social dialogue and tripartism, and defended human rights and freedom of association.
305. *Speaking on behalf of the Government group*, a Government representative of the Republic of Korea expressed deep condolences to the family of Mr de Arbeloa and echoed the sentiments expressed by the social partners.

Decision

306. *The Governing Body paid tribute to the memory of Mr B. de Arbeloa and invited the Director-General to convey its condolences to the family of Mr de Arbeloa and to FEDECAMARAS.*

(GB.332/INS/14(Add.), paragraph 5.)

First Supplementary Report: Report of the Meeting of Experts to Promote Decent Work and Protection of Fundamental Principles and Rights at Work for Workers in Export Processing Zones (Geneva, 21–23 November 2017) ([GB.332/INS/14/1](#))

307. *The Worker spokesperson* said that her group welcomed the conclusions of the Meeting of Experts to Promote Decent Work and Protection of Fundamental Principles and Rights at Work for Workers in Export Processing Zones (EPZs), although even stronger conclusions would have been preferred. Urgent action must be taken to address the serious decent work deficits in EPZs, including by giving effect to the decision taken by the Governing Body at its session in March 2017 on the follow-up to the resolution concerning decent work in global supply chains. That would entail preparing an action plan, which could be presented and

discussed as early as the November 2018 session of the Governing Body, to be integrated into the current programme of action on decent work in global supply chains.

- 308.** Additional efforts by the Office to develop and implement a resource mobilization strategy for the action plan would be welcome, together with action points targeting specific countries where decent work deficits in EPZs were common. However, action should not be limited to national actors only; the high-intensity working conditions in EPZs were in part driven by demand from outside national boundaries. It was therefore important that assessment of decent work deficits should involve all stakeholders. The ILO should conduct qualitative and quantitative research into violations of workers' rights in EPZs, including the application of national law and international labour standards, both in law and in practice, with special attention paid to violations of the right to freedom of association and collective bargaining. She invited the Office to refer back to the report of the Meeting of Experts for other useful ideas for action. Her group firmly supported the draft decision.
- 309.** *The Employer spokesperson* said that his group encouraged the Office to focus its future efforts on updating the ILO's knowledge base with comprehensively researched comparative and balanced information on a variety of EPZs across industrialized and developing countries and a range of sectors. The research should explore how EPZs were linked to countries' domestic economies, considering both the negative and positive impacts of EPZs on decent work and the fundamental principles and rights at work and their evolving nature, and taking into account the specific nature of individual EPZs to avoid generalized assertions. Many labour-related challenges were not limited to EPZs and, in fact, reflected the situation in the broader national economy, making some EPZs better places to work, in terms of conditions, benefits and training, than the rest of the country. It was therefore important to consider EPZs within their national context, as enclaves whose positive aspects must be preserved while forging stronger links between the enterprises based there and the overall economy.
- 310.** Regulatory and market reforms were needed to ensure that labour laws were sufficiently flexible. There was also a need to spur economic development outside of EPZs, boost domestic enterprises' production capacity – thus reducing demand for imported products – and support them in accessing EPZs themselves. There must be better labour law enforcement in EPZs through proper inspection coverage and administration, social dialogue inside and outside EPZs, and improved education and skills development. Employers also supported expanding the Enabling Environment for Sustainable Enterprises (ESEE) Programme to include EPZs.
- 311.** However, his group disagreed with a number of the points made in the Director-General's Report, particularly the creation of a stand-alone action plan on EPZs. All work on EPZs should instead be incorporated into existing initiatives and action plans. The Office's tendency to create new, discrete programmes and mechanisms was of great concern because it duplicated efforts and created a silo mentality, making engagement with the Office very difficult. Employers also feared that the Office would interpret the two conclusions on social dialogue in a way that they did not support. For example, his group did not support a push for international framework agreements or agreements between transnational corporations, as such agreements were between international trade union federations and multinational enterprises, most of which did not operate in the EPZs. Support for social dialogue in EPZs must not focus on such agreements.
- 312.** His group was also wary of any attempt to turn EPZs into engines of sustainable development with a separate, parallel labour regulatory system that further divided them from their national contexts. During the Meeting of Experts, for example, the Worker spokesperson had evoked the concept of privileges incurring responsibilities, which did not apply to EPZs. Governments granted special privileges to EPZs to boost economic growth and create jobs

without opening up a country to potentially harmful international competition. Rather than imposing criteria or guidelines for all EPZs, there should be targeted action to identify and address issues in the specific EPZs where violations were occurring, with broader solutions focused on economic development as a whole. In conclusion, the information currently available on EPZs was too outdated to serve as a basis for future activities, and his group rejected the proposal to develop the content and modalities for an action plan on EPZs.

- 313.** *Speaking on behalf of the Africa group*, a Government representative of Senegal said that EPZs posed a risk of eroding working conditions and social dumping, particularly in developing countries, and the issue required special attention. Creating decent working conditions that respected the dignity of workers must be the basis for the promotion of sustainable enterprises, job creation, skills development and economic growth. In that regard, the conclusions of the Meeting of Experts were welcome not only for their pertinent recommendations but also for their ethical foundations.
- 314.** Urgent action was needed to address precarious working conditions, violations of the right to freedom of association and collective bargaining, persistent discrimination and the emergence of irregular work in EPZs. The Office should therefore provide development cooperation support to member States by including specific actions in DWCPs to promote decent work in enterprises in EPZs; strengthen the capacity of labour administrations to intervene effectively in EPZs; raise awareness among stakeholders to encourage their respect for rights in EPZs, particularly through the adoption of the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy (MNE Declaration); and foster cooperation between other international, regional and subregional organizations to mobilize resources and coordinate action. His group supported the draft decision.
- 315.** *Speaking on behalf of the EU and its Member States*, a Government representative of Bulgaria said that the European Free Trade Association country Norway aligned itself with her statement. While EPZs could be a springboard for economic growth and foreign direct investment, they were not exempt from labour laws and worker protections. The EU and its Member States endorsed the recommendations of the Meeting of Experts and commended in particular those aimed at protecting the rights to freedom of association and collective bargaining and promoting social dialogue. Efforts to encourage companies to leverage their influence to protect workers' rights, proposals to integrate fundamental principles and rights into areas of action on EPZs, and the attention given to labour inspection were all welcome. The creation of an action plan on EPZs was a priority and should be supported by adequate resource mobilization. More information would therefore be welcome regarding the content, terms and timeline for implementation of the action plan. The EU and its Member States supported the draft decision.
- 316.** *A Government representative of Brazil* inquired as to how the forthcoming full report of the Meeting of Experts differed from the list of conclusions that had already been published, and whether the report would be submitted to the Governing Body. He also sought clarification on why the Governing Body was being asked to endorse, rather than simply take note of, the conclusions as per usual practice. Given the limited number of empirical studies available on EPZs, he wondered how the Office intended to engage with other international organizations to increase knowledge while staying within its mandate.
- 317.** *A representative of the Director-General (DDG/P)* confirmed that the ILO intended to carry out more research on EPZs. As many international organizations had not yet worked on the issue, it would be an opportunity for the Organization to embed its own view early on and work with other institutions. The comments made on fundamental principles and rights at work, compliance issues, national regime strengthening, and the international context in which EPZs operated would be taken into account. In response to the Employers' concerns regarding a stand-alone action plan, she said that the Office had been faithful to the

conclusions adopted by consensus at the EPZ meeting, whose agenda, as set by the Governing Body at its 329th Session, had been “to adopt conclusions which would provide guidance on the content and modalities for an action plan on EPZs”.

- 318.** *A representative of the Director-General* (Director, Enterprises Department (ENTERPRISES)) said that the full report of the Meeting of Experts differed from the list of conclusions in that it was a full record of discussions at the meeting for all to read. The conclusions had been reached by consensus and, if endorsed by the Governing Body, would form the basis for action going forward. The ILO would certainly engage with other specialized organizations that had information about EPZs, and the social partners would be consulted and kept informed throughout the process. The allegation that the Office was impulsively creating discrete programmes and mechanisms was unfortunate. If the Employers’ group believed that the Office was acting covertly, it was important that the matter should be discussed so that the Office could understand the basis for the insinuations.
- 319.** *The Worker spokesperson* expressed appreciation to the Government representatives who had spoken in support of the conclusions and had recognized the importance of freedom of association and collective bargaining for workers in EPZs. While acting as the Worker spokesperson during the Meeting of Experts, she had indeed raised the issue of privileges incurring responsibilities, which her group considered a legitimate proposition. It was not unreasonable to expect enterprises that received special privileges to abide by international labour standards and to deliver decent work as a binding condition for receiving incentives within EPZs. It was puzzling that the Employers chose to focus on national context, as the Meeting of Experts had been part of a series of meetings on global supply chains, and many of the violations within EPZs could be traced to enterprises based outside the country in question. As for the Employers’ opposition to the conclusions on social dialogue, they should recognize social dialogue as an important activity in which they had a key role to play. Although more and better research was always welcome, it was inappropriate to assume that existing information about EPZs was insufficient to take action. Regarding the Employers’ objection to the term “action plan”, she recalled that there had been a consensus in previous discussions that a coherent set of actions was needed. Governments also appeared to support action on the issue and to consider it a priority. Nothing was “stand-alone” at the ILO, but to achieve progress in a coherent manner, a certain level of focus was needed. Her group therefore called for a coherent and focused set of actions for dealing with the challenges posed by EPZs, this could be in the form of an action plan or plan of actions.
- 320.** *The Employer spokesperson* thanked the Worker spokesperson for having cast the issue in a different light. He emphasized that his group was fully committed to respecting fundamental rights in EPZs. With respect to the proliferation of programmes and duplication of efforts, the Employers had merely intended to point out that such duplication had occurred in other forums and to stress that it should not happen in the case at hand. Provided that the Office took the concerns of his group into account, he was willing to support the draft decision.

Decision

321. *The Governing Body decided to:*

- (a) take note of the outcome of the Meeting of Experts, endorse the conclusions, and authorize the Director-General to publish the conclusions of the Meeting; and*
- (b) request the Director-General to include the recommended follow-up action in the implementation of subsequent programmes and budgets.*

(GB.332/INS/14/1, paragraph 9.)

**Second Supplementary Report:
Documents submitted for information only**
([GB.332/INS/14/2](#))

Outcome

322. The Governing Body took note of the information contained in the documents listed at the end of its agenda.

(GB.332/INS/14/2, paragraph 3.)

**Third Supplementary Report: Replacement
of a member of a Governing Body committee
set up to examine a representation submitted
in accordance with article 24 of the
ILO Constitution**
([GB.332/INS/14/3](#))

323. Speaking on behalf of the Government group, a Government representative of the Republic of Korea recalled that in March 2017 the Governing Body had appointed Mr Diego Cano Soler of Spain as the Government member of a tripartite committee established to examine a representation alleging non-observance by France of the Termination of Employment Convention, 1982 (No. 158). Since, following the Governing Body elections in June 2017, Spain no longer held a seat in the Governing Body, the Government group needed to nominate a representative to replace Mr Cano Soler as the Government member of that tripartite committee.

Decision

324. The Governing Body appointed Mr Khalid Atlassi (Morocco) as Government member in the tripartite committee responsible for the examination of the representation alleging non-observance by France of the Termination of Employment Convention, 1982 (No. 158), made under article 24 of the ILO Constitution by the General Confederation of Labour–Force Ouvrière (CGT–FO) and the General Confederation of Labour (CGT).

(GB.332/INS/14/3, paragraph 3.)

Fifteenth item on the agenda

Reports of the Officers of the Governing Body

325. As there was no private sitting, the consideration of two reports of the Officers concerning representations under article 24 of the Constitution of the ILO was deferred to the 333rd Session (June 2018) of the Governing Body.

Sixteenth item on the agenda

Programme, composition and agenda of standing bodies and meetings

(GB.332/INS/16(Rev.))

326. *Speaking on behalf of the Government group*, a Government representative of the Republic of Korea expressed his appreciation for the preparatory work concerning the format and composition of ILO meetings. In this connection, his group expressed a clear preference for the meeting on cross-border social dialogue, scheduled for the last quarter of 2018, to take the form of a technical meeting so that all interested Government representatives should be invited. His group requested the Office to hold informal consultations on the format and agenda of that meeting before the 333rd Session of the Governing Body in June 2018. Consultation was an essential part of social dialogue and tripartism and important for preparations for a successful meeting. The Government group supported all draft decisions in the document.
327. *The Employer spokesperson* also supported all draft decisions but indicated that the meeting on cross border social dialogue should take the form of a meeting of experts rather than a technical meeting.
328. *The Worker spokesperson* said that her group agreed that the meeting on cross border social dialogue should take the form of a meeting of experts, as envisaged in the framework for the follow-up to the global supply chain discussion.
329. *The Clerk of the Governing Body* said that when it had been initially decided to hold the meeting, no decision had been made on its format. The question had been put to the constituents at the current session of the Governing Body. Since no agreement had been reached on the format, it would be postponed for consideration by the Governing Body at its session in June 2018.
330. *Speaking on behalf of the Africa group*, a representative of Chad noted with satisfaction that the composition of groups was based on tripartism. According to the ILO Constitution and the Standing Orders of the International Labour Conference, international non-governmental organizations could be invited to attend the Conference; in the past, invitations had been extended without difficulty and the Office should ensure that continued. Observers were required to refrain from taking the floor in discussions and that principle should be respected. The Africa group supported the draft decisions in paragraphs 4, 8 and 10 of the document.

Decisions

Meeting of Experts on Defining Recruitment Fees and Related Costs

(Geneva, 14–16 November 2018)

331. *The Governing Body, on the recommendation of its Officers, approved the holding of the Meeting on the dates proposed, as well as the composition proposed in document GB.332/INS/16(Rev.).*

(GB.332/INS/16(Rev.), paragraph 4.)

Invitations of intergovernmental organizations and international non-governmental organizations to official meetings

107th Session of the International Labour Conference (Geneva, 28 May–8 June 2018)

332. *The Governing Body, on the recommendation of its Officers, authorized the Director-General:*

- (i) to invite the organizations listed in the appendix of document GB.332/INS/16(Rev.) to be represented at the Conference, it being understood that it would be for the Selection Committee of the Conference to consider their requests to participate in the work of the committees dealing with the agenda items in which they had stated a special interest; and*
- (ii) to inform the organizations concerned that they might nominate one person only for each of the agenda items in respect of which their interest had been recognized.*

(GB.332/INS/16(Rev.), paragraph 8.)

Invitation of observers to other official meetings

333. *The Governing Body endorsed the proposals made in the table appended to document GB.332/INS/16(Rev.) relating to the invitation of international non-governmental organizations as observers to the meetings listed therein.*

(GB.332/INS/16(Rev.), paragraph 10.)

Programme of meetings for 2018 and 2019

334. *The Governing Body took note of the programme of meetings, as approved by the Officers of the Governing Body, subject to decisions to be adopted, as described in the footnotes of document GB.332/INS/16(Rev.), Part II.*

(GB.332/INS/16(Rev.), paragraph 11.)

Other business

335. *A Government representative of the Republic of Korea expressed his concern regarding the late start of Governing Body meetings, which had become the rule rather than the exception. The delays disrupted the following meetings and were unfair to the few people who arrived on time. He called on the Officers of the Governing Body to start the meetings at the scheduled times. Any groups not in a position to start on time should give an indication of when they expected to start and provide reasons for the delay. The Governing Body should be informed of any delay and consulted as to whether it wished to wait for late participants. Delays should not exceed 20–30 minutes. Strictly adhering to start times would result in a more productive working environment.*

336. *The Chairperson*, recalling that the Officers of the Governing Body were in the hands of the groups, acknowledged the sentiment expressed by the representative of the Republic of Korea and called on participants to ensure that meetings started on time.
337. *Speaking on behalf of the Government group*, the Government representative of the Republic of Korea said that his group was seriously disappointed at the inability of the Governing Body to commence its meetings on time. No one group was to blame and everyone needed to take responsibility. The three groups should meet to establish the methodology and timing of meetings so that joint and informed decisions could be taken when meetings were delayed.
338. *The Worker spokesperson* agreed with the proposal to schedule a conversation to establish modalities on the conduct of Governing Body meetings. She apologized to the Governing Body for the late start of the discussion on the Standards Initiative. The matter before the Governing Body was complex, and the Employers and Workers had wished to ensure the effectiveness of the discussion by meeting beforehand to prepare amendments to the draft decision which could be studied before discussion.
339. *The Employer spokesperson* apologized unreservedly for having kept the Government representatives waiting. In the future, his group would come to the room to seek permission for a late start if necessary. The Workers' and Employers' groups had considered that they were saving time in the long run by attempting to reach consensus before the discussion.
340. *The Chairperson* proposed that an item on the methodology and timing of Governing Body meetings should be added to the agenda of the Screening Group meeting to be held on 10 April 2018.

Closure of the session

341. *The Chairperson* informed the Governing Body that the Staff Union had announced an Organization-wide strike for that afternoon and the following day, which made it very difficult to continue with the current session of the Governing Body.
342. *Speaking on behalf of the Government group*, a Government representative of the Republic of Korea sought clarification on why the meeting could not continue because of the strike action.
343. *The Director-General* said that one reason was that the Workers' delegation had just left the room in solidarity with the strike and another was that the ILO had signed a protocol with its Staff Union in 1984 on essential services to be maintained in the event of strike action. Being limited to those essential services would make it impossible to continue with the Governing Body session.
344. *A representative of the Director-General* (DDG/MR) said that the outstanding agenda items were as follows:
- Institutional Section
 - item 4: Report of the Tenth European Regional Meeting (Istanbul, 2–5 October 2017);
 - item 5: Standards Initiative: Implementing the workplan for strengthening the supervisory system;
 - item 7: Review and possible revisions of formats and standing orders for meetings;

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- item 11: Reports of the Committee on Freedom of Association;
 - item 13: Report of the Working Party on the Social Dimension of Globalization;
 - items 15/2 and 15/3: Reports of the Officers concerning two representations under article 24 of the Constitution;
 - Policy Development Section – Development Cooperation Segment
 - item 5: Integrated ILO strategy to address decent work deficits in the tobacco sector;
 - Legal Issues and International Labour Standards Section – International Labour Standards Segment
 - item 3: Proposed form for reports to be requested under article 19 of the ILO Constitution in 2019 on a number of instruments on employment promotion through the regulation of the employment relationship;
 - Programme, Financial and Administrative Section – Personnel Segment
 - item 12/3: The status of the judges of the Administrative Tribunal of the ILO.
- 345.** Those items would be discussed at the Screening Group meeting on 10 April 2018 and subsequently by the Officers of the Governing Body to determine which of the items could be carried forward to the 333rd Session (June 2018) of the Governing Body and which could be delayed until the 334th Session (October–November 2018).
- 346.** *The Chairperson* declared the 332nd Session of the Governing Body closed.