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4C

International Labour Conference – 111th Session, Geneva, 2023

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Plenary sitting: Report of the Committee on the Application of Standards

Friday, 16 June 2023, 2.40 p.m.

President: Mr bin Samikh Al Marri

Report of the Committee on the Application of Standards: Presentation, discussion and approval

The President

I am honoured to declare open this last plenary sitting of the 111th Session of the International Labour Conference. We will begin by turning our attention to the report of the Committee on the Application of Standards. Part One of the report is contained in [Record of Proceedings No. 4A](#). Part Two is contained in [Record of Proceedings No. 4B](#).

Please allow me to recall that the Officers of the Committee and its Reporter are: Mr Hashmi (Pakistan), Chairperson; Mr Mackay (New Zealand), Employer Vice-Chairperson; Mr Leemans (Belgium), Worker Vice-Chairperson; and Ms Žeber (Poland), Reporter.

I now give the floor to Ms Žeber, so that she may present to us the Committee's report. The Officers will then take the floor.

Ms Žeber

Reporter of the Committee on the Application of Standards

It is a pleasure and an honour for me to present the report of the Committee on the Application of Standards to this plenary sitting of the 111th Session of the International Labour Conference. As a standing body of the International Labour Conference, the Committee on the Application of Standards is a unique tripartite forum that is empowered under article 7 of the Standing Orders of the Conference to consider the measures taken by Member States to give effect to the provisions of Conventions that they have voluntarily ratified. It also considers matters related to reporting obligations and other duties under the ILO Constitution. The basis for its discussion is the annual report of the Committee of Experts on the Application of Conventions and Recommendations.

I am pleased to report that the Committee on the Application of Standards managed to successfully complete its programme of work, based on the working methods agreed in tripartite consultations held on 5 April this year. The report of the Committee that is now before the plenary comprises two parts. The first part contains the General Report, which includes a record of the Committee's general discussion and the results of its discussions on: the General Survey by the Committee of Experts entitled *Achieving gender equality at work*; cases of serious failure to comply with reporting and other constitutional obligations; and 24 individual cases concerning compliance with ratified Conventions. The second part of the report contains the verbatim records of the Committee's discussions. As in previous years, the second part of the report is submitted to the plenary in a "patchwork" form, in three languages. The complete report, fully translated into the three working languages of the Conference, will be released on the ILO's website within 30 days.

I would now like to highlight some of the main points of the Committee's discussions. This year, the general discussion once again emphasized the fruitful dialogue between the Committee on the Application of Standards and the Committee of Experts. As part of this dialogue, the two Vice-Chairpersons of the Committee on the Application of Standards attended a special sitting with the members of the Committee of Experts at the annual session of the latter Committee in December 2022. The Committee on the Application of Standards noted that, in addition to this institutionalized dialogue, the Committee of Experts had held an information session with Government representatives in an informal setting, also in December 2022.

In addition, this year, the Committee on the Application of Standards welcomed the Reporter of the Committee of Experts, Mr Ago. He represented the Chairperson of the Committee of Experts, Ms Dixon Caton, who could not attend for reasons beyond her control. Mr Ago attended the discussions as an observer and addressed the Committee on the Application of Standards at the opening and closure of the general discussion. I note from his statements the importance that the Committee of Experts attaches to constructive engagement and continuous dialogue between the two Committees, and its readiness to discuss ways to reinforce the follow-up to the conclusions of the Committee on the Application of Standards at the country level.

The Committee on the Application of Standards also had the pleasure of welcoming the Chairperson of the Committee on Freedom of Association, Mr Evance Kalula, who presented his Committee's annual report, thus underscoring the complementarity between supervisory procedures.

The Committee on the Application of Standards paid tribute to Mr Alberto Echavarría, former Employer member of the Committee and Employer spokesperson in the Committee on Freedom of Association, and conveyed its sincere condolences to his family, friends and colleagues.

The Committee on the Application of Standards welcomed the opportunity to discuss the fundamental question of achieving gender equality at work, based on this year's General Survey by the Committee of Experts. It highlighted the urgent need to eliminate all forms of discrimination in employment and occupation, guarantee full and effective maternity protection, and ensure the right of workers with family responsibilities to engage in employment. It called on the ILO constituents to step up their efforts in this regard, and to consider the possibility of ratifying the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), the Workers with Family Responsibilities Convention, 1981

(No. 156), and the Maternity Protection Convention, 2000 (No. 183), as examined in the General Survey, with the technical assistance of the Office where necessary.

Lastly, as this year marked a return to normality, the Committee reverted to its regular working methods by adopting a list of 24 individual cases for examination. I am pleased to report that it was able to consider all the cases and adopt conclusions by consensus. Following the adoption of the conclusions, the Governments concerned had an opportunity to voice their opinions, which are reflected in the records contained in the Committee's report.

I would like to close by thanking the Chairperson of the Committee, Mr Hashmi, for his contribution to the work of the Committee, and acknowledge his skilful leadership in enabling the Committee to complete its important work. I would also like to take this opportunity to thank the Employer Vice-Chairperson, Mr Mackay, and the Worker Vice-Chairperson, Mr Leemans, for their expertise and cooperative spirit. And, of course, I wish to take this opportunity to pay tribute to the Office for its commitment, professionalism and high-quality guidance throughout the sittings of the Committee. In particular, I would like to commend the representative of the Secretary-General of the Conference, Ms Vargha, and her team, for their contribution to the work of the Committee. To conclude, I recommend the report of the Committee on the Application of Standards to the Conference for adoption.

Mr Leemans

Worker Vice-Chairperson of the Committee on the Application of Standards (Original French)

The Conference Committee on the Application of Standards has been entrusted with a fundamental mission. By monitoring the application of international labour standards, our Committee contributes to the founding objective of promoting social justice, set by the International Labour Organization since its creation.

The role of our Committee is to ensure that international labour standards are respected in law and in practice by the Member States that have ratified them. Ensuring respect for the application of international labour standards must contribute to the broader and more ambitious objective of social justice. This social justice must be founded on a global social legal order based on universally applicable international standards, in order to ensure humane conditions of labour for all workers and to act as a bulwark against the dismantling of social protections.

Respect for international labour standards is also, as I have said, a bulwark against the discontent caused by injustice, misery and deprivation resulting from the violation of the rights and freedoms enshrined in these instruments. Our Committee plays a central role in maintaining social peace and pursuing social justice by engaging in dialogue with Member States that have failed to comply with the international labour standards that they have ratified.

International labour standards have underpinned, and continue to underpin, the aspirations of workers around the world for better living conditions. It is through the promotion and development of these standards that we can achieve the objective of establishing truly humane conditions of labour.

This is a difficult task in a world facing social, economic, climatic and even democratic crises, and international labour standards must be a means of protecting workers from the socio-economic consequences of these crises. They must also try to respond to the underlying causes of such crises.

These observations lead us to reiterate our call for cooperation between Member States to promote social progress, establish better living conditions and to promote the health, education and well-being of all peoples, as expressed by the ILO's constituents when they annexed the 1944 Declaration of Philadelphia to the Constitution of our Organization. Our Committee's examination of individual cases is based on the Report of the Committee of Experts on the Application of Conventions and Recommendations. This report enables us to assess Member States' compliance with international labour standards and thus forms the basis of our work.

This report contains numerous observations that show many failures by Member States to comply with international Conventions. However, our Committee can only examine 24 cases, and all the other cases – and there are many of them – are and will continue to be monitored by the regular supervisory mechanisms set up by the ILO. In this respect, it must be emphasized that the independence of the Committee of Experts is crucial to the richness of the analyses produced. The Experts' independent interpretation of the legal scope of the content and meaning of the provisions of the Conventions is essential for analysing the specific situations brought to their attention and enabling Member States to better understand their obligations. This independence must be respected, promoted and defended.

Maintaining the independence of the ILO's various supervisory bodies is fundamental and thus a prerequisite for achieving the ILO's constitutional objectives. During our discussions, we managed to overcome our differences of opinion and adopt consensual, strong and operational conclusions. They will enable Member States to bring their legislation and practice into line with the Conventions examined and, in a spirit of tripartite social dialogue, they will have to be implemented in close consultation with the social partners. Our Committee and other ILO supervisory bodies will continue to monitor the situation closely and to support the various Member States.

We strongly reaffirm that the right to strike is a corollary of freedom of association and that it is therefore protected by the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), in a context of repeated and sometimes violent attacks on social protections, workers' fundamental rights and freedom of association. The right to strike is the fundamental right that allows workers to make their voices heard. Each group in our Committee has been able to express its position on this issue, and it has become clear that it will be increasingly difficult to reach an agreement on it. The positions are entrenched and irreconcilable, and they will not change. It is therefore high time to exercise the options provided by the Constitution to put an end to this dispute, which has gone on for too long. Legal certainty on this issue must be ensured.

Our group has also reiterated that enterprise sustainability cannot be a precondition for the application of the rights and freedoms enshrined in international labour standards. On the contrary, respect for international labour standards, and the rights and freedoms they enshrine, is a precondition for enterprise sustainability.

We also looked at the General Survey, which focused on gender equality this year. It enabled us to highlight the progress made in certain countries in this area, but also to become fully aware of the many disadvantages suffered by many workers, particularly women, in the world of work as a result of gender-based discrimination. We cannot deny that we still face many huge challenges in achieving gender equality. Urgent action is needed, and we welcome the conclusions of the General Survey adopted by our Committee. They present opportunities for working resolutely to achieve gender equality in the world of work, in particular by calling for the ratification and implementation of the relevant interdependent Conventions on this

subject. We will obviously need the support of all ILO constituents to achieve this, so we are counting on you.

I would like to conclude by recalling once again the fundamental mission of our Committee, which is to defend and promote workers' rights by monitoring the application of international labour standards by Member States. All the tripartite constituents of our Committee must bear in mind this fundamental necessity in order to achieve the constitutional objectives of our Organization. The Workers' group will, in any event, continue to be resolutely committed to this endeavour.

I would like to conclude by thanking all those who have made it possible for our Committee to carry out its work in the best possible conditions.

Mr Mackay

Employer Vice-Chairperson of the Committee on the Application of Standards

On behalf of the Employers' group, I would like to endorse the report of the Committee on the Application of Standards (CAS) and recommend its adoption. Overall, the Employers are pleased that the CAS was able to successfully conclude its work on time, thanks to the discipline and cooperation of all delegates. In particular, we thank our Chairperson for his effective time management. We noted positively that a majority of Governments constructively engaged in the CAS process and expressed their firm commitment to engage in the supervisory system.

In the discussion of the General Report of the Committee of Experts, the Employers highlighted several important issues that need to be addressed.

First, we believe that the needs of sustainable businesses should also be more systematically taken into account in ILO standards supervision, which could contribute to more balance and acceptance in the application of ILO standards. The needs of sustainable enterprises in the area of ILO standards have been clearly recognized in the ILO Centenary Declaration for the Future of Work: "International labour standards also need to respond to the changing patterns of the world of work, protect workers and take into account the needs of sustainable enterprises, and be subject to authoritative and effective supervision". Already in 2007, the International Labour Conference adopted conclusions that defined the conditions for a conducive environment for sustainable enterprises, and the roles of Government and the social partners in the promotion of it. We noted a view expressed by the Worker Vice-Chairperson, according to which enterprises are in essence a means to an end, that is to say a vehicle to ensure workers' welfare and rights. Therefore, it did not make sense to take into account their needs in ILO standards supervision. This ignores the fact that enterprises do pursue the legitimate economic objectives of their owners, while paying tax and other levies and complying with applicable rules. Considering that enterprises are exclusively committed to workers' rights and welfare objectives does not reflect the reality in law and practice in ILO Member States, and ultimately seems to question the right to private property.

Second, the Employers once again recall our position on the Experts' assessment of the right to strike in the context of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), notably that such a right does not fall within the scope of the Convention. This is not just the Employers' position – it is also the position of the Government group of the Governing Body, as expressed in its March 2015 statement. While the statement affirmed that the right to strike is linked to freedom of association, it also stressed that the right to strike is not an absolute right, and that the scope and conditions of this right are regulated at national level. We believe it is imperative that the Committee of Experts, in conducting its technical analysis of how the Convention is applied by States, fully

aligns to the view expressed by the Government group, and indeed the views voiced at the time the Convention was adopted in 1948.

The Employers noted the view expressed by the Worker spokesperson, according to which the possibilities for finding a solution on the right to strike through dialogue in the ILO have been exhausted, and that the only remaining solution is to refer the matter to the International Court of Justice. The Employers do not agree with this view. The legislator of the ILO, that is to say the International Labour Conference itself, must not be bypassed by referring rule-setting competences to the Experts or to the International Court of Justice. International labour Conventions containing potentially binding rules for ILO Member States can only be created by the Conference, and decisions by the Conference either to regulate particular matters in a certain manner, or to not regulate particular matters, must be respected whether some like them or not. More concretely, the fact that there may not be a sufficient majority in the Conference for rules on the right to strike, or at least for rules on the right to strike as designed by the Experts, cannot be a sufficient reason for withholding from the Conference the decision on this fundamental question in the field of labour relations.

We urge the Office to make more determined steps to actively facilitate an understanding on a constructive way forward on this critical issue that can be supported by a broad majority of ILO constituents. Just carrying on as before is no longer an option. Whatever way forward is considered, referring the matter to the International Court of Justice clearly does not have broad tripartite support. To echo the words of our Chairperson, "If you want to go fast, go alone; if you want to go far, go together". The Employers stand ready to engage with Governments and Workers in a serious and constructive dialogue on this matter of such importance and urgency for our Organization.

The key role that the Office plays in helping countries better comply with their standards-related obligations cannot be stressed enough. The high number of Experts' comments suggests that ratifications are often premature or made without proper pre-ratification assessments, or that outcomes of pre-ratifications are not considered. It seems imperative for the Office, in its promotional activities on ILO Conventions, to advise constituents to take a careful and deliberate approach to ratification. Ratification must not be rushed. It should occur at the end of a process towards ensuring compliance, not at the beginning.

Furthermore, ratification should not be considered as a political statement or a declaration of intent, but that what it actually is: a treaty under international law that is to be complied with. The Employers are convinced that if Conventions are designed to take sufficient account of differing national circumstances, and ratification is addressed in a compliance-oriented manner, application of ratified Conventions will be much improved. As a result, the supervisory system will be less burdened and can focus on more serious cases, and this is in our common interest.

Coming to the discussion on the General Survey, the Employers consider the achievement of gender equality and non-discrimination, support to workers with family responsibilities and maternity protection to be critical for social, economic and business development. In our view, further progress in these areas is needed and possible when the right policies and measures are applied. The policies and measures should build, above all, on the common interest of women, mothers and workers with family responsibilities, on the one hand, and their employers, on the other, and keeping their employment running as smoothly as possible, and avoiding unnecessarily long interruptions to work.

Governments have an important role to play in supporting this by providing both an affordable and efficient infrastructure for child and family care, for instance, family childcare

facilities with extended opening hours. At the same time, they should seek to avoid undue and unnecessary burdens for individual employers, in particular small and medium-sized enterprises, for instance by financing maternity benefits through tax or social security. To ensure that the issues covered by the six instruments examined in the General Survey are properly addressed, consultations with the most representative social partners that take into account workers' and employers' needs within their national realities are key.

Turning now to the discussion of individual cases. I would like to highlight the following ones.

Nicaragua, Convention No. 87. This case concerns most serious allegations against the Government for dissolution and confiscation of the assets of the Higher Council for Private Enterprise (COSEP) and its 18 member associations, as well as persecution, intimidation, repression and arbitrary detention of COSEP leaders. We urge the Government to immediately restore the legal status of the dissolved organizations and to fully and unconditionally recognize the right of independent employers' and workers' organizations to organize their activities without any interference that would restrict this right. We also expect the Government to strengthen effective social dialogue at the national level, with the presence of the ILO, in order to rebuild trust with the social partners.

El Salvador, the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144). This case has been discussed five times since 2017, dealing with significant deficiencies in social dialogue and tripartism, which are fundamental cornerstones of this Organization, and we deeply regret that the Government of El Salvador did not nominate, in agreement with the National Association of Private Enterprise, an Employers' delegate to this session of the Conference.

Netherlands – Sint Maarten, Convention No. 87. This case concerns the Government's attempt to marginalize the existing representative employers' organization by instructing the law-based chamber to set up another employers' organization. We urge the authorities of Sint Maarten to take immediate and effective measures to ensure that, both in law and in practice, the employers' freedom of association is fully and unreservedly respected, and to avail itself of ILO technical assistance to bring the national situation in line with the Convention.

Overall, these three cases, and the long-standing non-compliance by the Bolivarian Republic of Venezuela and Peru are other examples, show that the freedom of association of employers has come under increasing pressure in the region. The ILO needs to give a clear message to governments to the effect that Convention No. 87 protects the freedom of association of both workers and employers, without which there can be no meaningful social dialogue. In the case of the Bolivarian Republic of Venezuela, progress remains very limited, despite all the decisions and recommendations by the ILO standards supervisory bodies over the years, including a Commission of Inquiry in 2019.

A particularly serious case this year was Afghanistan, the Discrimination (Employment and Occupation) Convention, 1958 (No. 111). The only case that has been mentioned in a special paragraph of the Committee's report. The situation of girls and women in employment and public life in general in the country has dramatically deteriorated over the past few years, as the conclusions of the case show. While the de facto authorities were not present in the discussion, we trust that the conclusions of the Committee will reach them so that the process can be reversed.

Concerning the cases dealing with the worst forms of child labour, namely Nigeria, Nepal, Cambodia and Turkmenistan, we note the serious allegations involved and urge the

Governments to intensify their efforts to eliminate the practices of child labour and forced labour.

Let me highlight that this year we tried our best to draft the conclusions of cases in a fair and just manner, reflecting shortcomings in the application of ratified Conventions. We also recognize that progress can be made in this regard, and we will continue to work in that direction.

It is clear from the paragraph at the beginning of the individual cases section that we aimed to adopt straightforward conclusions focused on the Conventions, so that we then can make very clear instructions to Governments as to what they can do and how they can do it, and what help they can get. Any controversial issues or fundamental disagreements, such as those related to the right to strike, are not reflected and accordingly are not covered in the conclusions.

Finally, we would like to emphasize the importance of the follow-up to the CAS conclusions. We expect the Bureau for Employers' Activities (ACT/EMP) and the Bureau for Workers' Activities (ACTRAV) to be systematically involved in the follow up to assist employers' and workers' organizations in the respective countries on ways to achieve compliance with the Conventions that takes account of their needs. Any reports of technical assistance and missions should be made available online within a reasonable period of time after they have taken place. We also stress that the Office plays a vital role in helping countries to better understand how to comply with their standards-related obligations. Accordingly, we encourage the International Labour Standards Department to consult with the Employers' and Workers' secretariats, the International Organisation of Employers (IOE) and the International Trade Union Confederation (ITUC), to ensure that the most representative employers' and workers' organizations are well prepared to contribute to the success of the respective missions.

Overall, the Employers are satisfied with the operation of this session. Consensus was reached wherever possible and disagreements were highlighted where necessary. I would like to conclude with words of thanks and appreciation to the International Labour Standards Department for facilitating the preparation of this session.

A special thanks goes to our Chairperson, Mr Hashmi, for the fair, parliamentary running of the Committee's meetings this year, and very effective time management. Please allow me a moment to thank the Employers' group, especially Kaizer Moyane, Annick Hellebuyck, Paul Noll, Joakim Augeli Karlsen, Miriam Pinto, Juan Mailhos and Pablo Carrasco for their support and assistance in preparing and presenting the Employer perspective on the individual cases and the General Survey. I would also like to thank my friend, Marc Leemans, the Worker Vice-Chairperson, and his team, and the Government representatives who actively participated in the CAS to ensure that our discussions were constructive and productive. And finally, I would like to express particular gratitude for the absolutely invaluable support of Rita Yip, Altea Rossi and Emilie Villet from the IOE, and Christian Hess and María Ángeles Palmí Reig from ACT/EMP, without whose support I would have been unable to deliver these conclusions.

Mr Hashmi Chairperson of the Committee on the Application of Standards

As we adopt our Committee's report, I am honoured to take the floor this afternoon in my capacity as Chairperson of the Committee on the Application of Standards at the 111th Session of the International Labour Conference. The Committee on the Application of Standards is one of the key committees of the International Labour Conference and, with the Committee of Experts on the Application of Conventions and Recommendations, is at the heart of the

supervisory system for which the ILO is known. It has been an honour for me personally, and for my country, to represent the Asia and the Pacific group and to have the opportunity, as well as the responsibility, to steer the work of this very important Committee.

It has been an enriching experience, in the sense that I got to know the plumbing of the ILO system, if I can call it that. Its architecture is unique, and it was great knowing it in detail. I think even more important for me was to see the continuing salience, relevance and, I would even say, major importance of this Organization's architecture, that is the tripartism and international labour standards, given the very serious nature of the challenges that we all confront in the years ahead. In this ecosystem, cooperation and dialogue are the key; I saw that reflected in the willingness to engage in dialogue and acknowledge the difficulties, while renewing the commitment to work on them with the help and assistance that the ILO provides, that is, the technical assistance, the advisory services, the missions and other tools that are available. I was struck by the work that is undertaken not only in terms of developing norms, but also on the operational side. It is a huge machine that often goes unnoticed.

One of my key takeaways to share with my colleagues here in Geneva and elsewhere is the amount of work, good work, that is done in this ecosystem. During the session, the Committee discussed matters that were particularly topical, including the question of gender equality at work, which is the subject of the General Survey this year. As for the examination of individual cases, the discussions were able to proceed as scheduled, and all the cases on the list were examined within the time available. Again, the discussion was rich and passionate. We heard different, even opposing views, but these were always expressed with respect for the views of others in parliamentary language and in a way that reflected a firm commitment to international labour standards and the supervisory system.

I would like to take this opportunity to thank all delegates for their commitment and the constructive spirit in which they participated in the work of the Committee. The success of our work was illustrated by the fact that the two rooms allocated for it were often full. All of this is testimony to the interest generated by the discussions of the Committee and, more generally, highlights the relevance and importance of the supervisory system.

To conclude and to echo those who have spoken before me, if I had to use just a few words to sum up the work of our Committee, I would emphasize the important role of the Committee in promoting social justice, which is the cornerstone of the global recovery, to ensure that the future is human-centred, as also advocated by the Director-General. Let us not forget that the issues discussed by the Committee on the Application of Standards are central and will remain central to the lives of workers and employers, promoting decent work and social justice for all.

Finally, I would like to thank in particular the Employer Vice-Chairperson, Mr Paul Mackay, and the Worker Vice-Chairperson, Mr Marc Leemans, for their cooperation and for their constructive understanding. I would also like to thank Ms Joanna Żeber from the Government of Poland for her efficient work and for her accurate account of the work of our Committee. I know from experience that it is quite a task to deliver on the Rapporteur's duties. I also would like to express my sincere and very special gratitude to the representative of the Secretary-General, Ms Corinne Vargha, for her support and from whom I have learned a great deal. I would also like to pay tribute to her team, who all worked hard to make this Committee's work worthwhile. I would like to also convey my thanks to all the members of the secretariat for their professionalism and support. Of course, I would like to pay tribute to the excellent work of the translators and interpreters who enabled us to understand each other perfectly.

It only remains for me now to recommend that you approve the report of the Committee on the Application of Standards.

The President

I now declare open the discussion of the report of the Committee on the Application of Standards.

Ms Bucht

Government (Sweden), speaking on behalf of the European Union and its Member States

Albania, Bosnia and Herzegovina, North Macedonia, the Republic of Moldova, Montenegro, Serbia, Türkiye, Georgia, Iceland and Norway align themselves with this statement. We would like to start by warmly thanking the Chairperson for the efficient way in which he led the discussions and his very good time management. We would also like to extend our warm thanks to the Vice-Chairpersons and the Reporter for their constructive spirit, contributions and efficiency.

We welcome the discussions and the constituents' positive approach and engagement in the Committee on the Application of Standards, which embodies the true essence of mutual respect and tripartism. We strongly believe that the commitment to the work of the Committee to improve the effective implementation of ILO Conventions should remain a priority for all constituents. We strongly believe in the fundamental importance of international labour standards, their ratification and the effective, independent and authoritative supervision of their implementation. Upholding human rights, including labour rights, is fundamental.

The European Union and its Member States are firm advocates of the need for an independent, expert-based, efficient and robust supervisory system to oversee the implementation of and compliance with ILO Conventions. In this regard, we recall our strong commitment to the independence, objectivity and impartiality of the Committee of Experts on the Application of Conventions and Recommendations and its reports as a basis for the work of the Committee on the Application of Standards. The Committee on the Application of Standards is a unique mechanism that enables all constituents to discuss the implementation of ILO Conventions in a constructive, respectful and tripartite manner. It enables the exchange of views and fosters progress, and is critical to ensure the credibility of the Organization's work as a whole. In this respect, we welcome the fact that the conclusions of the Committee on the Application of Standards are more action-oriented, ambitious and achievable, fostering the commitment of the ILO Member States. We encourage the Member States to comply with the conclusions to the greatest extent possible, where appropriate with the support of ILO's technical assistance and missions.

We would like to appreciate the timely discussion we have had on the well-drafted and important General Survey, which highlights the legal and institutional framework required to achieve gender equality at work, as well as measures and proposals for future action in promoting gender equality. We underline how important it is to the preparation of the General Survey for ILO Member States to submit reports. We appreciate the observations of the social partners in this process. We would furthermore like to underline and repeat our support to the independent mandate and autonomy of the Committee of Experts to monitor and to analyse the application in law and in practice of any ILO Convention.

We will continue to support and reinforce the ILO's supervisory system, which operates in a challenging environment, as we remain convinced that this is one of the most extensive and valuable elements of the multilateral rules-based order. We are looking forward to a

constructive engagement with the Office and the tripartite constituents in the follow-up to the conclusions of the Committee.

The President

We shall now proceed with the approval of the report of the Committee on the Application of Standards.

If there are no objections, may I take it that the Conference approves the report, as contained in Records of Proceedings Nos 4A and 4B?

(The report is approved.)

I would like to congratulate the Officers and members of the Committee and the secretariat on the work accomplished this year. My warmest thanks to them all. Let me emphasize that the work of the Committee on the Application of Standards is one of the cornerstones of the ILO.

I shall now invite delegates who may wish to take the floor to do so.

Ms Manrique Sierra Employer (Colombia) (Original Spanish)

I would like to report that 11 Employers' delegates accredited to this 111th Session of the International Labour Conference are presenting a complaint against the Government of Nicaragua for persistent and continuous violations of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), and the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144). The Committee of Experts on the Application of Conventions and Recommendations has heard and discussed cases of persecution, intimidation and stigmatization by the Government of Nicaragua against the most representative employers' organization in the country, the Higher Council for Private Enterprise (COSEP).

The main allegations are as follows: the detention and trial of the leaders of business organizations, including José Adán Aguerra and Michael Healy, former Presidents of COSEP, and its Vice-President, Álvaro Vargas; the seizure of private property from business leaders; the exile and loss of nationality of various trade union leaders; campaigns to discredit the business organization; the cancellation of the recognition as a legal entity of COSEP, which has 18 subsidiary business organizations, for alleged non-compliance with the laws regulating it; the seizure of private property; the freezing of accounts belonging to trade union organizations that have been broken up; and the accreditation to the current session of the International Labour Conference of employers close to the Government, for the purpose of replacing the most representative business organization, which is COSEP.

All this highlights the seriousness of the employers' situation in Nicaragua and the urgent need to take all relevant measures to ensure the protection of freedom of association as a fundamental principle that is upheld in this house in a tripartite manner. The progressive nature of the Government's assaults leads us to request a Commission of Inquiry without further delay, since the mechanisms that have been employed on previous occasions have not been sufficient. The right to freedom of association, free enterprise and private property are

under threat. Respect for civil liberties should unite us with all the social partners to activate the appropriate mechanisms for the full protection of tripartism.

Ms Passchier
Chairperson of the Workers' group of the Conference

At this moment in time, at the end of this session of the International Labour Conference, I should not normally be taking the floor, but sadly I have to do so. After following the situation in Guatemala closely for years, we are forced once again to raise our strong concern regarding the continued attacks and killings of trade union activists in the country, and the continued inaction of the Government to improve the situation.

Guatemala has been under the near constant scrutiny of the ILO supervisory system for many years. To date, there have been 111 cases filed with the Committee on Freedom of Association. The Committee on the Application of Standards has examined Guatemala 14 times in the last 20 years – most recently this year – in respect of either the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), or the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), and the Committee of Experts on the Application of Conventions and Recommendations has regularly expressed concern and regret regarding the failure of the Government of Guatemala to comply with these Conventions.

We filed a complaint under article 26 of the ILO Constitution on this matter back in 2012, and a memorandum of understanding and a road map were agreed on. In November 2017, after years of inaction, a National Tripartite Committee on Labour Relations and Freedom of Association was established, which has since failed to accomplish a single relevant action point of the road map, in relation to tackling issues such as violence and impunity, protection for trade unionists under threat, union registration, anti-union dismissals, union registration, union busting and the promotion of collective bargaining and necessary changes in legislation.

However, members of the ILO Governing Body who were there at the time will remember that, despite strong objections from the Workers' group, the complaint procedure was brought to an end in November 2018, without having resolved any of the issues raised. Four years later, in September 2022, a joint mission of the ILO, the International Organisation of Employers (IOE) and the International Trade Union Confederation (ITUC) visited Guatemala out of concern for the lack of meaningful action on the road map, and a one-year priority plan was adopted in order to focus the attention of the Government on the most pressing issues. Unfortunately, once more, those issues, which the Government was supposed to accomplish, have not been completed, and there is no prospect of any progress any time soon.

The Workers' group strongly deplores the fact that, 11 years since the submission of the first article 26 complaint, no meaningful progress has been made on any of the issues previously identified now on so many occasions and through so many encouraging exercises. Clearly, and unfortunately, all of this is not enough. In my language – Dutch – we say that “soft surgeons make smelling wounds”. Trade unions and their members in Guatemala badly need effective action from the ILO to increase the pressure on the Government of Guatemala to deliver on all its promises. We therefore have seen no other choice but to file a new article 26 complaint and demand the establishment of a Commission of Inquiry, in the firm hope that, this time, there will be better outcomes for the workers of Guatemala as soon as possible.

I want to make a few further remarks. We are aware that this is yet another case regarding a country in the Latin America and Caribbean region. We want to recognize very clearly that, in that region, most countries are strongly committed to the ILO's mandate and to its international labour standards and to the implementation and supervision of them. We would

have preferred – and I want to strongly emphasize the word “preferred” – a tripartite joint commitment to address the urgency of the situation in Guatemala, both in the country and in the region. But until now, this has not been possible, including during this session of the Conference.

If this process and the procedure that we currently table can lead to effective tripartite action and the engagement of the Government of Guatemala and other governments, then we certainly would be very happy to engage in that.

I will now hand over the required documents that have been duly signed by a number of Workers’ delegates to the Conference. We have also sent the document by email to the Director-General and to the Director of the International Labour Standards Department.

Ms Pérez López
Government (Nicaragua)
(Original Spanish)

Nicaragua regrets the complaint filed by Colombian employers on the basis of article 26 of the ILO Constitution. We regret that political motivations are influencing the complaint. We also consider it extremely unfair, given that Nicaragua cooperates and will continue to cooperate with the ILO despite the coercive measures implemented against our country.

Ms Chávez Bietti
Government (Guatemala)
(Original Spanish)

The Government of Guatemala considers that the request submitted by the Workers’ group is inadmissible. May we recall that the complaint was closed in 2018 and Guatemala is currently in the process of preparing its third report on the technical cooperation programme, for submission in November 2023, as mandated by the Governing Body in 2020, for which financial and technical support has been requested from the Office, the International Trade Union Confederation (ITUC), the International Organisation of Employers (IOE) and friendly countries. Moreover, the Government was supportive of a joint mission by the ILO, the ITUC and the IOE last year to follow up on the road map commitments. The substantive issue is also being discussed in the Committee on Freedom of Association. Moreover, such a move is inconsistent with the conclusions of the Committee on the Application of Standards, which allowed for us to continue moving forward on what is the right track, adopting a tripartite approach at all times. This request demonstrates a clear lack of proportionality in the use of the standards supervisory mechanisms. Our country contributes to every single mechanism for the monitoring of standards, which are all simultaneously applied. We take note of the offer of the Workers’ group to work together to resolve the issue before the Governing Body session in November 2023, and recall the need for the active and proactive participation of all the national tripartite constituents from the IOE, the ILO and the ITUC.

The President

I understand that reference is being made to complaints of non-observance that will be submitted in writing under article 26(4) of the ILO Constitution against the Governments of Guatemala and Nicaragua. This has been duly noted and the matter will be referred to the Officers of the Governing Body for appropriate action.

(The Conference continued its work in plenary.)