



Meeting of the Tripartite Working Group on Options to Ensure Decent Work in Supply Chains

Geneva, 27 June–1 July 2022

▶ Record of proceedings

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Introduction

1. The Tripartite Working Group on Options to Ensure Decent Work in Supply Chains (the Tripartite Working Group) met in Geneva from 27 June to 1 July 2022. It held ten sittings, including three extended evening sittings.
2. The meeting of the Tripartite Working Group followed on from the Technical Meeting on Achieving Decent Work in Global Supply Chains (Geneva, 25–28 February 2020), the report of which was submitted to the Governing Body of the ILO at its 341st Session (March 2021). At that session, the Governing Body requested the Office to conduct an in-depth review to clearly identify if there were any gaps in the current body of normative and non-normative measures, including means of implementation and other measures, to facilitate a discussion on options to ensure decent work in supply chains, including at sectoral level, where appropriate. That review (the gap analysis) was delivered and shared with constituents [date of sharing] and formed the basis of the review by the present Tripartite Working Group.
3. The Tripartite Working Group was tasked with developing, with the support of the Office, the building blocks for a comprehensive strategy on achieving decent work in supply chains, taking account of the 2019 ILO Centenary Declaration for the Future of Work, the One-ILO approach, and relevant outcomes of the 109th Session (2021) of the International Labour Conference.
4. The Tripartite Working Group elected its officers as follows:
 - Chairperson: Ms Sarah Luna Camacho (Mexico)
 - Government spokesperson: Mr Siphon Ndebele (South Africa)
 - Employer Vice-Chairperson: Ms Gabriella Herzog (United States of America)
 - Worker Vice-Chairperson: Ms Catelene Passchier (the Netherlands)
5. The Chairperson said that much had changed since the 105th Session of the International Labour Conference (2016) had adopted the resolution and conclusions on decent work in global supply chains (the 2016 Conference conclusions). Supply chains had been severely disrupted by the COVID-19 pandemic, the climate crisis and conflict in Ukraine and elsewhere. Questions regarding the functioning and regulation of supply chains had increased; the ILO should play a pivotal role in ensuring that they provided decent work. The job before the Tripartite Working Group was to determine building blocks that would form the basis of a long-term strategy to equip the ILO to take up that role effectively.
6. The Tripartite Working Group adopted its work plan, the proposed discussion points and working methods.

Opening statements and discussion point 1: What are the main challenges to advance decent work in supply chains?

7. The ILO Deputy Director-General for Policy presented the gap analysis of normative and non-normative measures to ensure decent work in supply chains. She reminded participants that the 110th Session of the International Labour Conference (2022) had just adopted the resolution on the inclusion of a safe and healthy working environment in the ILO's framework of fundamental principles and rights at work. That, coupled with the recent election of a new Director-General, to take office in the fall, would certainly mean renewed energy in this area of work in supply chains.
8. The Employer Vice-Chairperson observed that the ILO had been working on decent work in supply chains without a clear strategy for too long. Decent work was a goal shared by all - employers,

workers, and governments. Consensus on the building blocks of a comprehensive, evidence-based ILO strategy to address the root causes of decent work deficits in supply chains in countries with limited capacity, in order to achieve sustainable change on the ground at national level, was therefore critical to improving the working conditions and livelihoods of workers and societies, and success in implementing such a strategy would give new purpose and relevance to the ILO.

9. Recent disruptions to supply chains, arising from trade wars, the pandemic and conflict, showed the chains' inherent fragility all too clearly. High levels of informality, limited tax bases and administrative challenges had prevented countries from responding adequately to support adversely impacted workers. The crisis also exposed the limited capacity of many countries to respond to these impacts through emergency support, mainly due to high levels of informality and limited tax bases, even where donor funding was available, due to lack of employment registrations, birth certificates, and access to banking systems. The enormous challenges to support financially impacted workers in supply chains, and the difficulties in reaching them, underlined the need to address the root causes of the decent work deficits impacting all workers.
10. The gap analysis showed the principal cause of decent work deficits in supply chains to be shortfalls in national governance, primarily the limited capacity to implement and enforce national law. Those structural challenges impacted all workers, regardless of whether the work was linked to exports or not. Addressing them together must be the ILO constituents' shared responsibility. Similarly, the report of the UN Working Group on Business and Human Rights to the UN General Assembly stressed that "a lack of government leadership in addressing governance gaps remains the biggest challenge." One fundamental issue was that host Governments were not fulfilling their duty to protect human rights, either by failing to pass legislation aligned with international human rights and labour standards, passing inconsistent legislation, or failing to enforce legislation that would protect workers and affected communities. The latest World Bank figures showed that nearly 2.4 billion women globally did not enjoy the same economic rights as men. The ILO should therefore focus its action on supporting national governments to repair such systemic governance issues.
11. The ILO and other UN bodies were tackling cases where national law and practice was not in line with ratified international labour standards and UN human rights Conventions. However, World Bank data showed that the capacity of governments to implement and enforce these instruments in national law was stagnant and had not significantly grown over the last two decades. Without strong support to build the capacity of constituents to address the root causes of decent work deficits at the country level, the shared aim to advance decent work in supply chains in countries with limited capacity would not progress.
12. The finding of the Alliance 8.7 report on child and forced labour explained that the challenges of child labour, forced labour and human trafficking were "rooted in the social and economic vulnerability of individuals, workers and their families." It added that preventive measures - such as accessible free public education of good quality, more robust social protection and promoting safe, orderly and regular migration - were "the necessary starting points" to end these fundamental labour rights violations. The evidence was therefore clear that the main challenges in supply chains were rooted in the national context and derived from systemic governance issues at the country level.
13. The gap analysis rightly pointed to a further gap in coordinating the different ILO activities and interventions, including broader investments and policy development in areas such as economic growth and development, infrastructure, education and skills, and labour market governance. That meant that decent work in supply chains could not be tackled in isolation. It must be included within the broader ILO means of action for promoting decent work and social justice for all

workers, the approach adopted under the ILO Centenary Declaration for the Future of Work, 2019 (the Centenary Declaration). It had been agreed that the issues of domestic and global supply chains should be considered together, given that 95 per cent of the world's workers were not employed by exporters and 85 per cent of workers were not even indirectly linked to global supply chains. Moreover, 80 per cent of GDP was in domestic supply chains, and the gap analysis clearly indicated that problems such as child labour were worse in domestic supply chains. Thus, policy and regulatory measures that only focused on exports or global supply chains excluded the vast majority of workers and did not address the root causes of the problems facing all workers. The root causes of decent work challenges in production linked to some global supply chains (national context, systemic governance issues) were exactly the same as those linked to domestic supply chains. Developing two different approaches or regulatory systems to tackle these issues would therefore be ineffective and lead to a two-tiered system.

14. At the Twelfth World Trade Organization (WTO) Ministerial Conference (Geneva, 12–17 June 2022), several governments had underscored how critical international trade openness and liberalisation, and international investment were for inclusive and fair growth and in addressing poverty. Trade was an important means for international development. That should inform policy coherence between the ILO and the WTO at the international and national levels. Trade and supply chains were important drivers for job creation, economic growth, and poverty eradication.
15. The evidence showed that supply chains per se were not the problem. Domestic and global supply chains existed in all countries. All countries, both developed and developing, were “producing” countries - the key issue was the national context and the capacity of national governments to implement and enforce national laws. Moreover, the gap analysis stated that “ILO standards address most of the decent work deficits that are associated with supply chains.” There was no “regulatory gap” that needed to be bridged at the international level. The problem is that these standards are not fully implemented or applied to all relevant segments of the workforce.”
16. The ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy – 5th edition, 2017 (the MNE Declaration) should be put to work more effectively to promote collaboration between ILO constituents and companies in order to address decent work deficits in supply chains in countries with limited governance capacity. Similarly, The Vision Zero Fund and Alliance 8.7 provided other innovative examples of collective action that the Tripartite Working Group could seek to replicate.
17. Human rights due diligence itself did not address the root causes of problems stemming from the lack of national capacity, which impacted all workers and all enterprises in a country, not just exporters. The vast majority of decent work challenges, and indeed the most severe challenges, occurred in the domestic economy, and individual companies alone would not be able to address deeply rooted systemic challenges in supply chains. The ILO therefore needed to take a holistic and comprehensive approach. Within such a broader ILO approach, it must be fully recognized that the real actors in supply chains were small and medium-sized enterprises (SMEs), which accounted for the vast majority of enterprises in almost all countries. The ILO gap analysis rightly stressed that firm-level productivity was crucial to enabling enterprises to create and sustain decent, productive jobs and to harness the benefits of supply chain integration. It was consequently critical that the comprehensive strategy on decent work in supply chains should support increased productivity, strengthening resilience and improving the performance of suppliers. It should support all companies - large and small - in conducting due diligence by providing easily accessible and relevant data and information on specific country risks, relevant stakeholders at the local level, and possible partners for collective action. Three key principles should guide the Tripartite Working Group: the eventual strategy needed to be evidence-based; address root causes; and benefit all workers.

18. The Worker Vice-Chairperson reminded the Tripartite Working Group that the 1919 Treaty of Versailles stated that “the Members of the League (of Nations): will endeavour to secure and maintain fair and humane conditions of labour for men, women, and children, both in their own countries and in all countries to which their commercial and industrial relations extend, and for that purpose will establish and maintain the necessary international organizations”. The transnational dimension of the ILO’s mandate, now made more pertinent still through globalization, was recognized from the outset. The strategy must therefore allow the ILO to take up a leadership role in respect of global supply chains.
19. Foreign direct investment (FDI) had the power to transform multinational enterprises into major agents of globalisation. Low labour costs became important elements of their competitive strategies, prompting them to dictate conditions of employment, especially in developing countries. The business model in which working conditions and wages were fixed at the top end of the supply chain, with local subcontractors or intermediaries having little influence, led to greater profits at that top end, with greater vulnerability and powerlessness among workers and small- and medium-sized enterprises (SMEs) at the other end. Fierce competition among subcontractors further decreased local profit margins resulting in low wages. Governments often lacked the resources and inspection capacity to enforce labour laws. This situation was compounded by multinational enterprises insisting on tax exemptions, and threatening to move production elsewhere, should labour costs increase. The result was a race to the bottom where women, children, and migrants suffered the worst effects.
20. The outcomes of the Tripartite Meeting of Experts to identify possible action to promote decent work and protection of fundamental principles and rights at work for workers in export processing zones (Geneva, 21–23 November 2017) (the Expert Meeting on EPZs), and the Tripartite Meeting of Experts on cross-border social dialogue (Geneva, 12–15 February 2019) (the Expert Meeting on Cross-border Social Dialogue), should inform the discussion. Both meetings highlighted the importance of freedom of association and collective bargaining which, if genuinely and effectively promoted and enforced, could prevent and address most decent work deficits in supply chains.
21. The COVID-19 pandemic had exposed the fragility of global supply chains. Millions of workers lacked social and labour protection. Cross-border systems to ensure accountability and responsibility of lead firms and buyers were non-existent. Orders had been unilaterally cancelled, trade unions and their leaders targeted and dismissed, collective bargaining obligations flouted. The failure to respect human rights, including in global supply chains, had led human rights bodies and the ILO Committee on the Application of Standards to issue guidance to Member States and actors on their obligations. Climate change and conflict in Ukraine raised additional questions regarding the sustainability of global supply chains and exposed further gaps in ILO labour standards in the area. Technological change, such as the growth of digital platforms posed new challenges for decent work in global supply chains. There was also the specific issue of export processing zones (EPZs), where incentives to attract investments often led to erosion of workers’ rights.
22. Reliance on voluntary auditing, without binding and enforced regulations, had little impact on the ground. Everybody was connected, but nobody responsible. Lead companies, while coordinating all steps in global supply chains, escaped liability as only the relevant business unit, often at the lowest level, remained responsible. This eroded the employment relationship and access to labour protection. The Committee of Experts on the Application of Conventions and Recommendations (CEACR), in its General Survey Promoting decent work in a changing landscape, concluded that pressures on labour costs in global supply chains were an element leading to informality. The Employers’ group had highlighted informality as one of the major challenges for the ILO to address.

- 23.** In recent years state duties under international human rights law to protect human rights beyond their national borders had been strengthened. That trend was supported by several national, regional, and international initiatives towards more effective action on global supply chains including through binding regulations. Regulation at the supranational level was required to address the essentially transnational nature of global supply chains. That idea was supported by statements made by the G7 Labour and Employment Ministers Communiqué in support of “exploring ideas and options for a consensus-based legally binding instrument at the international level”, and by the Business 7 and Labour 7 (B7-L7) on “recognizing the responsibility of businesses to map risks and prevent and remedy harms down their international value chain”. The UN Working Group on Business and Human Rights also called for effective mandatory requirements and the development of a smart mix of regulatory and non-regulatory measures.
- 24.** The Government spokesperson said that the ILO had a leading role to play in ensuring decent work in supply chains. The Tripartite Working Group should address both normative and non-normative issues. The COVID-19 pandemic had thrown the need for social protection into sharp relief. The ratification of ILO Conventions without proper implementation led nowhere. Policy coherence, and continuous advocacy for social dialogue were required. Corporate due diligence, as defined in the United Nations Guiding Principles on Business and Human Rights (the UN Guiding Principles) and the MNE Declaration, was of paramount importance to realizing decent work in supply chains. The UN Guiding Principles called for a smart mix of voluntary and binding measures at the international level while noting that international binding frameworks remained elusive. That meant businesses could not operate on a level playing field, lacked legal certainty and faced a patchwork of divergent rules and expectations. The outcome of the meeting should promote fundamental principles and rights at work and access to remedy, particularly in transnational cases. That would address the inequalities identified by the resolution concerning inequalities in the world of work adopted by the 109th Session of the International Labour Conference (2021). Effective cooperation among countries, enterprises and social partners should be promoted throughout supply chains, especially in their poorly integrated lower tiers.
- 25.** The Government representative of Sweden, speaking on behalf of the European Union (EU) and its Member States, said that the EU was highly committed to promoting decent work in global supply chains, citing the 2020 Council Conclusions on Human Rights and Decent Work in Global Supply Chains and the 2022 Communication on decent work worldwide of the European Commission and its 2022 proposal on a Corporate Sustainability Due Diligence Directive. The important work of Alliance 8.7 and the Durban Call to Action bore witness to the ILO’s commitment to work in this area. The Organization’s work had gained importance during the pandemic, which had revealed the urgency of promoting decent work, including in global supply chains. The EU supported the ILO’s human-centred approach to recovery from the crisis under the 2021 Global call to action, which included fostering more resilient supply chains. Decent work deficits in global supply chains were particularly prevalent when governments and enterprises did not adequately fulfil their respective roles. Low levels of legislation on labour and social protection, weak law enforcement, ineffective public administration and irresponsible business practices were key examples. There was a need for strong social partnerships, collective bargaining, and social dialogue to ensure that international labour standards were applied in global supply chains. A robust outcome from the Tripartite Working Group would further stimulate awareness and raise the commitment of the ILO and its constituents, including multinational enterprises, and would provide the momentum to further decent work across the globe.
- 26.** The Government representative of Argentina stressed the importance of tripartite social dialogue. High levels of informality, especially in countries in the Global South, was one of the principal obstacles to promoting decent work in supply chains. Governments were not solely responsible

for combatting informality. In this globalized world, and as witnessed during the pandemic, decent work deficits in one part of the world would necessarily affect other parts of the world. In an unfavourable economic context, compliance with the ILO Social Protection Floors Recommendation, 2012 (No. 202) and the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204), was essential. COVID-19 had impacted women particularly harshly. However, decent work should allow them to become less vulnerable. People and lives needed to be at the centre of all decisions, not trade. Argentina had been among the first States to ratify the Violence and Harassment Convention, 2019 (No. 190), which had enabled it to establish social dialogue frameworks, and to bring related regulations into force, including one on the social and solidarity economy. SMEs were growing in the region; however, decent work should exist all along supply chains. Standardization and policy coherence were essential for a shared vision.

27. The Government representative of Bangladesh explained that it was important to draw a correlation between the products and their impacts on lives, instead of focusing only on the work environment. Certain goods and services could be produced in a decent work environment but have negative impacts on lives, and vice-versa. Criteria of the goods and services in global supply chains that required transformation to bring them into the world of decent work should be defined. Perhaps entire supply chains were not concerned. The emerging system of global labour governance based primarily on private, voluntary, and self-regulatory standards had not proved its worth. The aim should not be to create a new policy paradigm for global labour governance but rather aim to address the root causes of the problems inherent to global processes. Global buyers and suppliers were the two most prominent parties in the global supply chain framework. Hence, correlated measures were needed in quickening the approach to transformation to a world of decent work. The following should be noted:

- structural changes in key sectors of the global economy arising from technological progress and the COVID-19 pandemic had altered the work environment and affected the quantity, quality, and distribution of employment;
- in labour-intensive industries, business connections through buyer-driven global supply chains were a common practice. Therefore, the lack of obligations and responsibilities for both the buyers and suppliers was a major cause of concern;
- considerable efforts were directed at producing high-quality goods at low cost. However, the key stakeholders' duties should also be taken into account;
- failure to distribute profits generated both by buyers and suppliers fairly and equitably was a major cause of concern;
- while profitability might be the heart of business, flexibility, deliverability, and quality should add value for the suppliers at the bottom of the chain;
- tensions between enhancing productivity and decent work were creating challenges for the design of interventions for long-lasting performance in the world of work;
- informality.

28. Several other elements could positively influence the world of work. On the industry side, the influence of global supply chains on formalization, firm-level productivity and profit margin should be taken into account. On the workers' side, important elements included the level of education, skills, and knowledge about their rights.

29. The Government representative of Canada said that tackling decent work deficits in supply chains required collaboration across governments, and employers' and workers' organizations, MNEs, SMEs, international organizations, and civil society organizations to find global solutions. Their cross-border nature, multiple tiers of contractual relationships (or lack thereof), fragmented production and complexity of supply networks, particularly in the lower tiers, complicated identification by MNEs of the sources of labour rights violations within their supply chain and in determining appropriate levels of oversight and liability. Governments faced challenges on how to work with social partners, industry, and civil society in designing policies and programmes to address labour rights violations in countries, particularly on forced and child labour. Governments had to deal with internal complexities, national circumstances and varying legal and constitutional frameworks in the regulation of industries and interaction with their supply chains, both domestically and abroad. Labour laws in countries might fall short of the fundamental principles and rights set out in ratified international labour standards, while implementation and enforcement capacities might also be lacking. Social and labour legislation often only applied to workers in the formal economy, excluding certain sectors of supply chains from legal protection. Absence of employment relationships for supply chain workers made them highly vulnerable. During domestic consultations, business organizations had acknowledged a lack of awareness, traceability tools and available data on second and third tier suppliers. Voluntary measures did not go far enough to address labour rights violations in global supply chains. Moreover, states' capacities to regulate corporate activities that occurred outside national boundaries were limited. International labour standards could help to establish a baseline and inform the design of national regulatory frameworks, but they must be effectively implemented. The ILO was the best placed organization to address decent work deficits in supply chains and should move ahead in developing international measures to tackle the issue.
30. The Government representative of the United Kingdom of Great Britain and Northern Ireland said that COVID-19 and the Russian invasion of Ukraine had seriously impacted labour markets, affecting women, youth, and vulnerable groups disproportionately. The ILO estimated that 24.9 million people were trapped in forced labour globally in 2016, while 160 million children were in child labour in 2021, an increase of 8.4 million children in four years and the first increase in two decades. The situation was worsening, and the persistent crises could only raise the risk of decent work deficits in supply chains. More must be done globally to prevent, investigate and sanction the adverse human and labour rights effects of business activities. The United Kingdom was the first country in the world to require businesses to report on the steps taken to tackle modern slavery in their operations and global supply chains. During the UK Presidency of the G7 in 2021, the G7 addressed forced labour in a trade context for the first time and Trade Ministers agreed on a Statement on Forced Labour. Joint work with the ILO and with other multilateral institutions to follow-up the commitments made in that G7 Statement would continue. In particular, the ILO's fundamental principles and rights at work should be further promoted and ratification of the fundamental Conventions increased globally. In response to the UN Guiding Principles, the Government had established a national action plan in 2013 to improve the human rights practices of businesses. The United Kingdom's new International Development Strategy and recent OECD Ministerial Council Statement sought to further promote responsible business conduct with a focus on human rights and globally recognized labour rights. The ILO should continue to lead in promoting a proactive, positive responsible business agenda with social responsibility at the heart of business and trade, including through the promotion of ILO International Labour Standards, the MNE Declaration and the UN Guiding Principles should work to ensure greater policy coherence, increased social dialogue, information sharing, transparency, and due diligence on private and public sector supply chains.

31. The Government representative of the United States said that the ILO was well-placed to lead global action for decent work in supply chains. A comprehensive, effective strategy to address supply chain decent work deficits should be based on a smart mix of national and international, mandatory, and voluntary measures, including legislation, incentives, and guidance for business. While failures within global supply chains contributed to decent work deficits, supply chains also contributed to economic growth and development and had a positive impact on job creation. Governments were ultimately responsible for making good labour laws and enforcing those laws within their borders. Enterprises were also responsible for safeguarding labour and social rights in their operations and their supply chains. Some governments were unable or unwilling to enact and enforce laws protecting workers' rights, with some enterprises responding by not exercising their own responsibility to respect those rights. That resulted in an unlevel playing field, on which responsible governments and employers were at a competitive disadvantage. Unions had a key role to play in ensuring due diligence, remediation, and overall supply chain governance. Frequent violations of workers' freedom of association and collective bargaining rights meant that many workplaces where unions were unable to play this key role. Workers in supply chains whose rights were violated often had little or no access to remedy through state or non-state-based judicial, non-judicial, or grievance mechanisms. Rising use of violence against workers' rights defenders was deeply concerning. The increasing complexity of supply chains, with reliance on subcontracting extending into the informal economy, made monitoring difficult. Lack of clarity regarding the responsibilities of different private sector entities along supply chain, particularly in the absence of a lead buyer, was another challenge. Voluntary initiatives were important tools; however, they had proven inadequate alone in detecting, addressing, and remedying labour abuses that were often hidden, even from well-trained, independent auditors. Some Member States had begun to implement the UN Guiding Principles, the OECD Guidelines for Multinational Enterprises (the OECD Guidelines) and the MNE Declaration, including through mandatory measures. This momentum allowed the ILO an entry point to foster greater policy coherence, enhance legal clarity for business, reduce compliance costs for companies and, most importantly, promote decent work.
32. The Government representative of China noted that supply chains, when subject to proper governance, could be key drivers of economic growth, poverty reduction, job creation, employment formalization, as well as entrepreneurship. The ILO should harness their potential to generate decent work. Supply chains were however confronted with the decent work challenges of informality, inadequate social protection, and poor occupational safety and health. The COVID-19 pandemic had further exacerbated these deficits. Their persistent root causes included unfair distribution of the benefits of economic progress, and lack of fiscal and policy space to promote higher value-added activities and sustainable development, particularly in developing countries. A situation of monopsony gave the single buyer particular influence. Dispute settlement mechanisms between the countries and enterprises in the upper tiers of the supply chain and those in lower tiers were lacking. Most goods were produced in developing countries and emerging market economies, and it was difficult for them to have a voice in setting the criteria of responsible business conduct, which was usually determined in the upper tiers of the value chain. The ILO should address this phenomenon and provide practical solutions. Some countries, on the frequently erroneous pretext of protecting labour rights, had been imposing unilateral sanctions on workers and employers in the global supply chains in other countries. Such actions went against the rules of international trade, worsened global inflation, and impaired the international community's global efforts to foster recovery from the COVID-19 pandemic. Moreover, they jeopardized the interests of consumers and the rights of the workers and employers affected to pursue productive and freely chosen employment and decent work.

- 33.** The Government representative of Mexico said that the gap analysis, taken with the ILO Centenary Declaration, provided a basis for the building blocks. Low wages, lack of social protection and inequality must not be prioritized in the search for competitiveness and investment. Trade unions must play a key role in ensuring freedom of association and effective collective bargaining. Mexico had recently transformed its labour relations by changing the subcontracting regulations. The changes made had enabled 3 million workers to move out of informality and improve their working conditions. The three main challenges relating to supply chains were guaranteeing freedom of association; establishing appropriate regulations for decent work; and coordinating international cooperation to monitor and evaluate compliance.
- 34.** The Worker Vice-Chairperson, noting the support for a smart mix of regulatory and non-regulatory measures, stressed that the debate was not a debate in favour of or against trade, but rather about the need for trade to be “fair”, bounded by rules and leading to decent work, in line with the UN Guiding Principles, the OECD Guidelines and the MNE Declaration.
- 35.** The Employer Vice-Chairperson recalled the two-step process decided by the Governing Body in March 2021, which firstly requested the Office to conduct a gap analysis on domestic and global supply chains; and secondly required the establishment of the Tripartite Working Group to establish building blocks for a comprehensive strategy on achieving decent work in supply chains. To put the discussion into scale, statistics showed that 95 per cent of the world’s workers were not employed by exporters, while approximately 85 per cent of workers were not even indirectly linked to global supply chains. As the gap analysis showed, the key challenge was the failure to fully implement the relevant standards or to apply them to all relevant segments of the workforce. Effective collaboration and coordinated action at national level was certainly needed. The 5th Global Conference on the Elimination of Child Labour (Durban, 15–20 May 2022) had pointed to this need in the Durban Call to Action. The approach must also be people-centred.
- 36.** It was not true that trade and globalization had led to a race to the bottom and exacerbated global inequalities. Significant progress made by middle-income countries in raising income and reducing poverty over the last decades were related to increased trade. The notion that everybody was connected and nobody responsible was also unfounded. Every employer, public or private, was responsible under the national legislation of the country where they were domiciled. Employer responsibilities were clearly defined, for example in the UN Guiding Principles. The Employers agreed that private forms of governance could contribute to improving working conditions but did not substitute effective public enforcement.
- 37.** The B7-L7 statement that had been quoted earlier identified the root causes of supply chain decent work deficits as informality, weak governance and administration, corruption, insufficient labour inspection, absence of social protection floors and insufficient judicial systems and legislation not aligned to the ILO Declaration on Fundamental Principles and Rights at Work and other human rights instruments. The G7 should support partner countries in building capacity to implement and enforce national legislation effectively. The state’s duty to protect human rights and enterprises’ responsibility to respect human rights were key to achieving decent work, quality employment and equal opportunities. Addressing informality was a shared objective.
- 38.** The Worker Vice-Chairperson noted that the Governing Body had requested the use of the compromise term “supply chains”, not “domestic and global supply chains”, as no agreement had been reached on the use of “global supply chains”.

Discussion point 2: Are there any gaps in the current body of normative and non-normative measures, including means of implementation and other measures, to ensure decent work in supply chains?

39. The Worker Vice-Chairperson said that the report clearly identified that particular decent work challenges stemmed from the cross-border nature of supply chains. The 2016 conclusions indicated that “the expansion of global supply chains across borders has exacerbated these governance gaps”. Poor governance was not solely responsible, especially in developing countries.
40. While the gap analysis suggested that current ILO standards addressed most of the supply chain decent work deficits, the future standard setting agenda of the ILO, which included platform work, whistle-blowers, just transition and new OSH challenges, suggested otherwise. All those issues were relevant to supply chains. In addition to limited state capacity to implement and enforce relevant standards, there was the lack of commitment, or even opposition, of members of constituent groups, to promote the ratification and implementation of some standards. The Employers’ opposition to the Home Work Convention, 1996 (No. 177) was a case in point.
41. Existing international labour standards covered the protection of workers within national jurisdictions, without addressing the conduct of the network of business relationships responsible for producing the goods and services in the supply chain beyond national borders. Supply chains could be integrated into one single business entity or, in other cases, comprised of legally distinct business networks of buyers and producers where decisions and actions of one entity significantly impacted the employment conditions of workers engaged by another entity. That led to a situation in which the standards could not be applied in practice, especially when the worker was legally employed by a subcontractor, including labour brokers or temporary agencies, or in a form of self-employment, thus creating a fundamental normative gap. Moreover, in supply chains, the model involved business relationships of several different employers across borders. The current labour governance model focused regulation exclusively on the protection of workers within national jurisdictions without focusing on cross-border business relationships, where production of goods and services took place in an integrated manner.
42. She therefore identified the following gaps:
- gaps in the thematic body of ILO standards, notably platform work. COVID-19 had exposed the fragility of global supply chains and had accelerated the rise of the digital economy, which could require appropriate new labour standards;
 - the full body of ILO standards did not take account of all characteristics of supply chains, including their cross-border nature;
 - roles and responsibilities including of third-party actors, stemming from the multi-employer nature of the supply chain business model;
 - the multi-jurisdictional nature of supply chains, while almost all ILO standards relied on ratification by national states which were then bound to implement the standards within their national territories;
 - the limited scope for the cross-border application of collective agreements and lack of clarity about the scope 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);

- existing approaches to enforcement and remedies were focused on the national level and did not address questions of workplace compliance in the context of cross-border sourcing of goods and services.
- 43.** The work of the ILO supervisory mechanisms related to decent work in supply chains had so far been limited. The CEACR had not often made observations or recommendations regarding supply chains, though occasionally requesting further information on the issues. No conclusions on individual supply chain cases had ever been adopted, but some comments had been made in General Surveys.
- 44.** More specific gaps in ILO standards arose from the supply chain business model, and rendered the current normative measures unfit for purpose to address decent work deficits in supply chains:
- their lack of requirements for preventative measures, often referred to as due diligence, regarding cross-border activities and operations impacting on labour rights;
 - absence of international regulations governing social auditing and certification bodies operating across different countries;
 - absence of requirements under international labour standards obliging Member States to collaborate on labour inspection and access to remedy in cross-border cases;
 - the silence of standards in relation to the right to enter into collective bargaining with the economic employer in cross-border business relationships, exacerbated by heavy reliance on outsourced workers with no effective right to bargain collectively with the lead-firm determining their working conditions, and no remedy against the lead-firm in cases of labour rights breaches;
 - the absence of international labour standards that applied directly to the cross-border supply chain context.
- 45.** The role of several strong, but non-binding, norms, such as the UN Guiding Principles, the OECD Guidelines and the MNE Declaration should be clearly identified, and their limitations noted. Ratification and implementation of ILO standards should be promoted to give effect to the full force of the ILO's body of instruments. Only the Worst Forms of Child Labour Convention, 1999 (No. 182) had achieved universal ratification. Commitment to standard-setting, promotion of ratification, implementation and enforcement should be addressed by the ILO. Convention No. 177 was ignored and effectively blocked for ratification by several Member States and some constituent groups.
- 46.** All ILO non-normative action must be understood in the context of its normative mandate. The ILO had an important, normative mandate, supported by non-normative action. The ILO assisted its Member States to realize normative outcomes through a range of measures including regulatory reform, effective enforcement, sustained enterprise compliance and mature social dialogue based on freedom of association and collective bargaining rights. Its assistance to its constituents included providing information, building capacity and raising awareness, developing an evidence base or facilitating dialogue.
- 47.** The ILO's non-normative measures focused on the national level. Many ILO interventions at national and enterprise level, from guidance on the application of ILO standards to sustainable enterprise development, took place within supply chains, but as part of ILO's core means of action, through Decent Work Country Programmes (DWCPs) and UN country frameworks, rather than specific supply chains interventions. They were thus able to engage with supply chain actors who

were not necessarily part of a direct employment relationship. In some cases, engagement with supply chains and supply chain actors has enabled the ILO to support the commitments and responsibilities taken by buyers: such as encouraging change in the actions of demand-side enterprises – including purchasing practices.

- 48.** There was a gap in the understanding of how and when competitive pressures in a supply chain could influence decent work outcomes directly and indirectly, and how and to what extent different actors' leverage could best be put to use across different supply chain tiers. ILO supply chain activities had not been grounded in a consolidated, systematic research framework. Increased coordination between research projects and project-related research was required in the future. Understanding new trends in supply chains, including services and digitalization would better inform the Organization's support to constituents including at national and regional levels. There was a need for action on data collection and dissemination to Member States and other multilateral and international organizations. Very little research had addressed the issue of intermediate or lower tier suppliers, especially homeworkers or informal workers, or workers in informal enterprises. Recent ILO experience suggested that a strategic and systematic approach starting with a firm understanding of the supply chain in question could improve tailor-made responses to support constituents and key actors at various levels to seize opportunities and address challenges in an integrated and coordinated way.
- 49.** There was a need for an effective global governance of supply chains and for stronger public and private accountability mechanisms by which workers themselves could secure and enforce responsible supply chains practices from buyers and brands. Hence the need to support employers' and workers' organizations as well as governments to build industrial relations systems in line with international labour standards that could enjoy cross-border freedom of association and collective bargaining. Consideration should be given to the linkages between supply chains and the informal economy including the effects of supply chains on the informalisation and precarity of formal jobs, for example in the rural sector.
- 50.** As called for under the ILO Declaration on Social Justice for a Fair Globalization, 2008 (The Social Justice Declaration) the ILO must support constituents to leverage trade agreements to ensure compliance with international labour standards. Enterprise-level performance could be strongly affected by sectoral and national factors - including broader investments and policy development in industrial strategy, infrastructure, skills and labour market governance. There was a gap in coordinating activities at these different levels. The UN Working Group on Business and Human Rights had called on States to develop and adopt National Action Plans (NAPs) on Business and Human Rights. The engagement of ministries of labour as well as employers' and workers' organizations in this process was crucial. A critical issue both in the development and effective implementation of the NAP was to ensure meaningful dialogue and protection of those most at risk, that included protection of human rights defenders, including trade union representatives.
- 51.** Voluntary measures alone had not provided effective mechanisms to address the normative gaps identified, Normative action was required; in the Workers' view, the ILO needed to develop a "smart mix" of normative and non-normative action.
- 52.** The Employer Vice-Chairperson reiterated that the key finding of the gap analysis had been that "if existing international labour standards were appropriately ratified and implemented, decent work deficits in supply chains would - in principle - be significantly reduced." All companies operating in a particular country were subject to the laws and regulations of that country, including laws based on ratified ILO Conventions. The gap analysis rightly highlighted that: "States are responsible for ensuring that all actors within their jurisdiction or territory comply with their

legal obligations”, and that “All enterprises must comply with national law regardless of who their customers are or where they are located.”

- 53.** These laws and regulations must be in conformity with ILO fundamental principles and rights at work and with ratified ILO standards. However, the gap analysis also stressed that governments had different levels of capacity and resources to effectively monitor and enforce compliance. The Organization therefore needed to focus its technical assistance to support building the capacity of national institutions. The ILO had a comprehensive range of Conventions, Recommendations and Protocols covering practically every work-related issue. Thus, ILO constituents had elaborated a full normative framework at international level which fully applied to supply chains. Cross-border supply chains started and ended in a particular country and were thus covered by the national laws of that country. They were also found in all countries, both developing and developed. If there were a regulatory gap, the resulting problems would be found in all countries, but this was simply not the case and not supported by evidence. Switzerland, for example, was an important exporting country. However, no one had concerns with regards to working conditions in Switzerland, nor considered that there might be governance challenges. Where there was a conducive national context and effective governance, there were no decent work deficits in supply chains. The gap was in implementation and compliance, driven by limited capacity, rather than normative. For that reason, the B7-L7 statement in May 2022 had exhorted the G7 to tackle decent work deficits in supply chains through support to “partner countries in building capacity to effectively implement and enforce national legislation.”
- 54.** The comprehensive strategy should clearly address how the ILO could work more effectively and efficiently - and at much greater scale - to close this implementation gap, by building the capacity of national institutions and national tripartite constituents. There were therefore no normative gaps, however there were some non-normative gaps that the comprehensive strategy should address:
- Lack of coordination between different ILO departments and programmes, and between Headquarters and field offices. The “One-ILO-Approach” remained an ambition rather than a reality. There was a silo mentality in the ILO’s core means of action, including in the specific supply chains interventions. Many field offices and most departments had “supply chain” activities, but they failed to link those activities to root causes in the national context, and without any kind of coordination, collaboration, or centralized information sharing. Thus, there was no learning from experience and no chance to scale up projects and replicate best practice. Consequently, the ILO was not seen, as it should be, on the international stage or by the private sector as an effective organization for addressing the root causes of challenges in supply chains.
 - Many of the supply chain interventions were donor-led and failed to take the express needs of local constituents as their starting point. Local constituents were consistently insufficiently consulted on or involved in the design of projects. This did not make sense and undermined impact and sustainability of projects. The gap analysis stressed insufficient coordination of efforts to attract donor funding or in the implementation of donor funded activities. The current ILO internal competition for donor funding amplified the highly fragmented approach to ILO interventions on decent work in supply chains. A coordinated approach was missing, where the ILO first worked with constituents to develop a comprehensive strategy for technical assistance in a country, based on the national constituents needs and priorities, which would then be presented to potential donors for support.
 - Supply chains could serve as an important entry point for ILO capacity building at national level. However, ILO supply chain interventions mostly focused very narrowly on a particular

commodity or sector without clearly identifying how it could ensure spill-over effects to improve the national context or strengthen national institutions. There was insufficient collaboration and coordination between supply chain interventions and ILO's core means of action.

- Approaches to address decent work deficits too often did not consider the need for broader investments and policy development in areas such as industrial strategy, infrastructure, skills, and labour market governance. ILO approaches did not take account of the needs of enterprises in supply chains to increase productivity and business resilience.
 - The gap analysis highlighted that ILO supply chain activities had not been grounded in a consolidated, systematic research framework. The ILO should take the lead in terms of intelligence and knowledge. However, other international institutions as well as business schools and universities were doing better. The impact of certain ILO supply chain interventions was unclear. ILO research on supply chains had also suffered from the lack of a clear and consistent definition, and from failing to recognize that decent work deficits in countries with limited capacity or systemic governance issues did not apply to all supply chains.
 - There were insufficient partnerships with the Bretton Woods institutions, regional development banks, WTO, ITC and UNCTAD.
 - Outside actors had difficulty accessing the knowledge and expertise of the ILO. Easily accessible information on country-specific risks was needed, based on the findings of the ILO supervisory machinery, to help companies in their due diligence obligations.
 - There was no ILO focal point for governments that would help with expertise on labour clauses in trade agreements and with targeted technical assistance to help countries implement commitments made in labour clauses in trade agreements.
 - There were insufficient efforts to fully use the convening power of the ILO to address specific problems on the ground through collective action, bringing the key national actors together, including the government, social partners, companies, trade unions and other possible actors. Such approaches had been successful in Uzbekistan and Qatar, but were not replicated.
 - Existing tools, such as the ILO MNE Declaration, were insufficiently used to promote decent work, including in supply chains.
 - The Office could better communicate on its decent work in supply chain activities, its successes, and its ambitions, which remained not clearly visible to the outside world.
- 55.** Addressing these gaps in the ILO's non-normative measures would not necessarily require huge human or financial resources but would require working more effectively as One-ILO, particularly at the country level, and would greatly increase the impact of ILO work.
- 56.** The Government spokesperson agreed with the Workers that there were gaps in ILO standards to address supply chains. The ILO body of standards was not designed systematically to address business relationships or responsible business conduct. In many instances, purely voluntary approaches had fallen short, which had led to mandatory due diligence in an increasing number of countries. The ILO had a lead role to play through its supervisory system, since the adoption and implementation of standards remained important in addressing the deficits. The building blocks should include a discussion on both normative and non-normative measures, and consider the diverse national contexts, in order to achieve policy coherence, a level playing field, supply chain transparency, and access to remedy. Non-normative efforts, such as capacity building, technical support, development cooperation and programming, could help achieve the four pillars of the ILO Social Justice Declaration.

57. The Government representative of Sweden, speaking on behalf of the EU and its Members States, agreed that international labour standards would in principle significantly reduce decent work deficits associated with supply chains if they were appropriately ratified and implemented, and if they applied to all relevant segments of the workforce. There was however a clear trend in support of regulatory approaches at the national and regional levels. In recent years, States, businesses and other stakeholders had given increasing support to legislation to protect human rights in global supply chains. A draft European Commission directive on corporate sustainability due diligence, currently under discussion, recognized the need for significant improvement on a much larger scale. It would be accompanied by strong supporting measures, including for production companies. While the UN Guiding Principles envisaged a smart mix of voluntary and mandatory measures, there were difficulties in progressing to binding measures at the international level to achieve a truly global level playing field. Enterprises should operate in accordance with the principles set out in the MNE Declaration. Due diligence and remedies were core mechanisms which could address responsibilities for human rights in the context of business relationships in domestic and cross-border supply chains in accordance with the UN Guiding Principles. The cross-border movement of goods, which linked highly varying economic and regulatory contexts, pertained to a business relationship rather than an employment relationship, while very few international labour standards regulated responsible business conduct of employers in relation to workers outside of an employment relationship and instead through a business relationship. Regarding normative gaps, neither enforcement nor remedies in cross-border supply chains issues were specifically covered by international labour standards. The EU held that fair and rules-based international trade which respected labour rights and promoted fair wages and working conditions and value-addition along global supply chains could be a catalyst for economic growth and development. The existing ILO normative corpus needed to be supported and supplemented by non-normative measures, using supply chains as an entry point to promote decent work. The ILO should work closely with countries in promoting ratification and implementation of labour standards, as well as responsible conduct of companies and enhanced consumer awareness of the increased risks in certain sectors. Social dialogue at all levels was crucial to promote effective and sound industrial relations and, by extension, social justice in the world of work, as reaffirmed in the Expert Meeting on Cross-border Social Dialogue. There was a need for capacity-building and technical assistance to support actors, particularly in production countries, as well as social partners. The ILO should actively engage with the private sector, including multinational companies operating cross-border. The ILO Helpdesk for Business on International Labour Standards was a useful tool in that connection. The most significant non-normative gaps were the missing linkages between the ILO's national and sector level decent work interventions to supply chains. Data gathering and sharing should be improved, including on the level of informality, and the ILO supervisory mechanism should be brought to bear in relation to supply chains.
58. The Government representative of Germany stated that closing transnational gaps in human rights protection and corporate accountability along global supply chains was a global challenge that required collective action at all levels and through all policy channels available. The goals of ensuring decent work for all and creating a global level playing field for responsible business conduct would remain unattainable without a smart mix of measures - national and international, mandatory and voluntary. The ILO was uniquely positioned to play a leading role. However, while some international labour standards addressed the movement of labour across borders, they did not regulate responsible business conduct. Transnational business activities and their adverse human rights and labour impacts were not systematically addressed, and the few references to human rights due diligence in international labour standards contained no language requiring businesses to undertake due diligence. It was crucial to move beyond the gridlocked debate on corporate voluntarism versus imposing binding legal obligations on transnational corporations,

as the complementarity of the two kinds of policy instruments needed to be exploited, though binding rules must be established. During Germany's G7 presidency, the G7 Labour and Employment Ministers had committed to contributing to a global level playing field aligned with the authoritative standards of the UN Guiding Principles and the MNE Declaration. The G7 was ready to engage constructively in discussions at the UN and the ILO, in close consultation with all relevant stakeholders, to explore ideas and options for a consensus-based legally binding instrument at the international level that added value to the existing legal and policy approaches and was implementable. The ILO normative corpus needed to be supported and supplemented by non-normative measures, as seen in ILO programmes and projects such as SCORE, Vision Zero Fund, Better Work or Sustainable Supply Chains to Build Forward Better. The ILO should work closely with producing countries, the private sector and social partners, and should support all countries in ratifying and implementing labour standards.

59. The Government representative of the United States noted that the ILO's body of standards did not adequately address business relationships, including those involving the cross-border movement of goods and services, and their impacts on workers. ILO standards did not typically seek to regulate responsible business conduct either within one jurisdiction or between jurisdictions. No ILO standards linked the full set of ILO fundamental principles and rights at work to responsible business conduct. Only the Protocol of 2014 to the Forced Labour Convention, 1930, included a reference to due diligence.
60. The voluntary and non-binding MNE Declaration stated that enterprises should carry out due diligence linked to their impacts on, at a minimum, the fundamental principles and rights at work. However, the MNE Declaration's discussion included only two references to supply chains and one reference to due diligence. Purely voluntary compliance approaches, programmes, and policies alone had fallen short of protecting basic rights of workers.
61. Binding mechanisms had proved effective to advance decent work in supply chains, but very few supply chains were governed by binding rules, covering only limited sets of workers' rights, often not including all the fundamental principles and rights at work.
62. Workers and trade unions were well positioned to identify the impacts of adverse business conduct on workers' rights. However, trade unions were often not adequately included in public and private supply chain initiatives. There was limited clear, specific, and authoritative guidance within or outside the ILO. Trade unions, social dialogue, collective bargaining, and stakeholder consultation played an essential role in human rights due diligence, and in promoting responsible business contact.
63. The existing body of normative and non-normative public and private supply chain initiatives did little to promote transparency within supply chains. There was scant information on where decent work deficits were within supply chain tiers in different states and sectors. Most information on working conditions in supply chains was controlled by private enterprise and was not made publicly available. Consequently, trade unions and other key players could not address those decent work deficits.
64. According to the gap analysis, some non-normative gaps resulted from not systematically linking ILO national and sector level interventions to supply chains through the DWCPs. Some gaps arose from having no means of determining which supply chains would provide a strong entry point to advance decent work. It would benefit all constituents if the gaps were addressed both by normative and non-normative measures. Workers would benefit from decent work opportunities in supply chains; enterprises would find a level business playing field; and governments would avoid the risk of regulatory competition attracting business for the wrong reasons.

65. The Government representative of Canada indicated that a combination of measures was needed to promote compliance by all in achieving decent work in global supply chains. While existing normative and non-normative measures touched on many of the issues in supply chains, the nature of supply chains made it difficult to ensure proper enforcement of those measures across an entire supply chain. For non-normative measures, specific programmes designed to improve working conditions in a single area or industry were insufficiently linked together.
66. The non-binding nature and uneven application and implementation of international frameworks and guidelines had limited their effectiveness and had prompted the search for a legally binding instrument at the international level, such as the one led by UN Human Rights Council Open-ended intergovernmental working group on transnational corporations and other business enterprises with respect to human rights. Voluntary measures alone were not sufficient; a smart mix of voluntary and binding measures would be required. Mandatory due diligence measures were emerging in some countries, generating a need for a common approach to facilitate compliance with multiple due diligence regimes and reporting requirements; advancing and protecting labour rights, particularly fundamental principles and rights at work; and establishing minimum due diligence obligations on enterprises operating in developing countries. Mandatory due diligence measures could improve corporate risk management processes, encourage investors, protect companies against costly litigation processes, and contribute to sustainable enterprises.
67. Many of the current legislative frameworks in the various countries addressing labour rights violations focused on child labour, forced labour and/or modern slavery. However, the eradication of child labour and forced labour could only be achieved if other decent work objectives, such as freedom of association; collective bargaining; sustainable business conduct; social dialogue and social protection, were promoted.
68. A normative base would help the ILO assist Member States in promoting responsible business conduct and due diligence and ensure labour rights were included among due diligence approaches. It would position the ILO at the forefront in addressing decent work in supply chains and solidify the Organization's leadership on this important issue.
69. The Government of China said that Chinese enterprises had made major efforts to stabilize global supply chains during the COVID-19 pandemic. The Government strongly advocated corporate social responsibility (CSR) and had established a Human Rights Action Plan 2021–2025 to promote responsible business conduct and labour rights based on the UN Guiding Principles. The UN Global Compact Network was present in China and many enterprises were formulating responsible business conduct criteria and applying CSR.
70. National experience showed that normative and non-normative measures complemented each other. However, they must be compatible with national circumstances, culture, and economic development. The gap analysis indicated that supply chain decent work deficits would be significantly reduced if existing standards were fully ratified and implemented. New standards were not needed. The focus should be on the ratification and effective implementation of existing instruments.
71. From a normative perspective, the standards supervisory system should be more responsive to supply chain issues by promoting constructive dialogue and cooperation in good faith, without transforming it into a platform to name and shame Member States. The share of individual cases noting that progress had been achieved should be substantially increased.

- 72.** From a non-normative perspective, the Office should:
- increase efforts to provide timely, effective and tailored technical support to assist Member States to fulfil their obligations under ratified instruments, especially those pertinent to supply chains;
 - collect data and information from reliable sources and conduct in-depth research into supply chains with a view to informing targeted policy solutions;
 - leverage its expertise and resources, including its development cooperation activities and the International Training Centre of the ILO (Turin Centre), to build government and social partner capacity to mitigate and prevent supply chain decent work deficits, including by strengthening national labour inspection systems;
 - play a leading role in enhancing policy coherence in this area and reinforce its collaboration with other UN entities and relevant international agencies.
- 73.** The Government representative of Argentina stated that her country had deployed enormous collective efforts to overcome the COVID-19 pandemic. Social dialogue, collective bargaining and minimum wages had all been maintained in Argentina and the Government had engaged with the employers and workers to mitigate the effects of the crisis. Further elements had compounded the situation in the global South - financial, humanitarian, energy, and environmental crises and a great increase in inequalities. Tripartite social dialogue was essential to face up to these events. All aspects of decent work should be strengthened, but very few standards dealt specifically with supply chains. Moreover, standards could only be correctly applied if countries had the capacity to do so.
- 74.** Argentina had introduced a specific public policy during the pandemic in respect of the Convention No. 190. All measures needed to be strengthened to deal with such issues at work, and the Government was currently working with business chambers and employers to that end, including with MNEs and their supply chains in the country.
- 75.** In this context, the Office should build the capacity of constituents to apply normative frameworks and implement non-binding initiatives, to address decent work deficits in supply chains in a coordinated, effective manner. The ILO should provide research and data analysis to establish a proper basis for action. Argentina attached great importance to the MNE Declaration and had recently designated a tripartite focal point to design and implement actions to promote the instrument and allow its guidance to benefit more actors. A national action plan on business and human rights, to coordinate policy in the area and include the labour dimension based on decent work, was in the pipeline.
- 76.** The Government representative of Senegal said that weak labour market governance, arising from insufficient labour administration compounded the problem of decent work deficits in supply chains. Senegal supported the UN Guiding Principles. National legislation was often not aligned with international labour standards. Different Member States applied different standards, and sometimes the legislation was not understood. Awareness of relevant legislation should be promoted, while ensuring harmonisation through supranational standards applicable at regional level.
- 77.** Few workers in supply chains enjoyed the rights to social dialogue and collective bargaining. They were thus unable to influence their conditions of employment and were exposed to abuse and exploitation. That constituted one of the principal gaps to be remedied. The ILO should provide technical assistance to Member States in developing mechanisms allowing them to intervene specifically in supply chains. The MNE Declaration and the Social Justice Declaration should be

better promoted. Measures to promote the transition from informality to formality, particularly relevant in Africa, had been ineffective, leaving young people and women in a vulnerable situation. Informality allowed non-compliance with the principle of decent work. Action against it should be strengthened.

- 78.** The Government representative of Bangladesh said that the ILO had an adequate body of standards to ensure decent work. Universal application of Conventions would provide worldwide parity in labour standards. There was therefore no need for a further binding instrument to address challenges in supply chains, where business relationships, rather than employment relationships pertained. Hence the importance of establishing effective means of ensuring responsible supplier and buyer business conduct. For Bangladesh, capacity building, training, and skills development constituted important non-normative measures.
- 79.** Regarding the approach to be taken, it was important to recall that:
- national circumstances must be taken into consideration when designing remedial measures;
 - benefits and gains were shared unequally between suppliers and buyers;
 - global buyers should expand and streamline implementation of auditing in their supply chains;
 - gaps in technology and technical know-how were impediments to achieving decent work;
 - the international regulatory framework did not connect buyers with suppliers to minimize the gaps;
 - the development of transnational or cross-border dialogue worldwide had been uneven;
 - COVID-19 had increased inequality significantly, requiring further non-normative remedies;
 - Social protection measures for migrant workers, hit hard by the pandemic, required major policy measures.
- 80.** The Government representative of Mexico said that normative measures at the national and international level should complement each other and should cover new forms of work and vulnerable population groups. Gaps also existed in non-normative areas; freedom of association and collective bargaining however, remained primordial in facing new challenges, posed by new technologies as well as the pandemic. Mexico was exploring labour and environmental certification in the exporting agroindustry employing day workers, as an alternative to CSR. Owing to weaknesses in labour inspection, the Government had employed mechanisms of dialogue, support, and self-evaluation. The agricultural sector was an important element in global supply chains and contained vulnerable population groups needing support to guarantee them fair wages and social protection. Transborder challenges could be tackled on the basis of ratified ILO Conventions integrated into national law, enabling the ILO to monitor and follow up their application.
- 81.** The Employer Vice-Chairperson said her group was not arguing about voluntary versus mandatory measures. All enterprises had to comply with national law, which was not voluntary. Social compliance programmes came in when governments were weak in domestic enforcement but did not seek to replace the requirement to comply with national law. The question before the Tripartite Working Group was how to address decent work deficits in supply chains. Strengthening and building capacity at the national level to promulgate laws aligned to international labour standards and then effectively enforce them was the best way to reinforce governance. A global level playing field was achievable if all countries implemented and enforced their national laws.

82. International human rights law obligated states to protect the rights of their citizens. Likewise, there was a corporate responsibility to respect human rights. The issue of remedy was addressed in the UN Guiding Principles. Remedy for abuse presupposed an accessible, transparent, fair and effective national judicial system.
83. Convention No. 177 had only attracted 13 ratifications since its adoption in 1996, compared with 18 ratifications for Convention No. 190, adopted in 2019. It was clear that Convention No. 177 had not garnered tripartite support. The ILO could only be strong when it operated in tripartite consensus.
84. The Worker Vice-Chairperson noted general support from governments for the smart mix approach. The B7-L7 joint statement cited earlier did not say that all issues should be addressed at the national level and only through national legislation. States and enterprises did have a responsibility to respect human rights that went beyond national legislation and borders. B7-L7 committed to responsible business conduct in accordance with the UN Guiding Principles, the OECD Guidelines and the MNE Declaration. Employer support for that Declaration was welcome. But not everything related to decent work and respect for human rights could be covered by national legislation. While some domestic supply chains fell within national borders, the cross-border responsibilities arising from supply chains added an additional layer of concern that could not be covered by national legislation, as the UN Guiding Principles indicated.
85. While the MNE Declaration set out to regulate responsible business conduct, and should be better promoted, it was not a binding instrument. In the global South, trade unions were seldom, if ever, involved in collective bargaining and social dialogue on issues of foreign direct investment by MNEs wishing to extend their business networks in countries. Frequently they were confronted with often adverse outcomes, curtailing protective union laws with the aim of attracting investment.
86. The aim of the Standards Review Mechanism (SRM) was to review the existing body of standards of the ILO to see if it was up to date, and identify possible gaps which would require new standards or adaptation of existing ones, but not primarily to identify the need for new standards, which was the domain of the Governing Body and Conference.
87. As business was increasingly global, so should its regulation be global. A level playing field required action at the global level. Employers at the supranational level of the EU had already stated their preference to have the same rules across the Eurozone. A level playing field would provide businesses with legal certainty and clear rules that applied to companies wherever they or their subsidiaries were based.
88. In respect of Convention No. 177, it had been regrettable that the Employers had left the International Labour Conference discussion during its elaboration, given the huge interest of women in the informal economy, especially in the global South, for the instrument. The ILO had still not adequately addressed the issues of contract labour, subcontracting and the multi-employer reality of supply chains and how to apportion responsibility. That Convention only had 13 ratifications because its ratification was strongly opposed by national employers' organizations. It was a missed opportunity.

Discussion point 3: What should be the building blocks for a comprehensive strategy on achieving decent work in supply chains?

[The Chairperson announced that the groups had agreed to share their written statements and contributions regarding the draft building blocks with each other, to better coordinate their positions

regarding discussion point 3. Speakers were therefore able to respond to the groups' written statements when taking the floor.]

- 89.** The Employer Vice-Chairperson noted that the meeting was about both domestic and global supply chains, reflecting the scope of the gap analysis. The building blocks should reflect this. Challenges did not derive simply from production of goods involving several distinct employers. Nor was there any evidence that challenges derived from situations where goods, materials and services crossed borders, in other words, from international trade. All production of goods and services occurred within a national jurisdiction and was covered by national laws and regulations. All companies operating in a particular country, whether they produced for a domestic market or for export, and regardless of their size, were subject to the laws and regulations of the country, including laws based on ratified ILO Conventions. The claim that goods produced for export were somehow “unregulated” was incorrect and unfounded. It was incorrect and against all evidence to say that supply chains changed the employment relationship of each enterprise in the supply chain into an “indirect employment relationship” or “multi-party employment agreement”. The fact that a company sold its products or services as inputs to other companies did not create confusion or ambiguity about the employment relationships in each company. The building blocks must be anchored in the ILO’s core activities to support constituents to promote decent work and social justice. The ILO must put particular emphasis on:
- breaking down the silos in the ILO and promoting the “One-ILO” approach;
 - reviewing its field structure to ensure that there were sufficient specialists in the field;
 - maintaining an up-to-date body of international labour standards and modernizing the standards supervisory system;
 - ensuring that ILO development cooperation addressed the root causes of decent work deficits, and responded to the needs and priorities of national level constituents;
 - Strengthening the capacity of Employer organizations to assist member companies to improve understanding and awareness of decent work issues in the supply chains, enhance compliance with national legislation, and adopt responsible business practices.
- 90.** Building blocks for a comprehensive ILO strategy to address decent work deficits in supply chains and unleash the potential of the ILO included:
- Strengthening coordination through the establishment of a dedicated cross-departmental team to coordinate and lead the ILO’s work and research on supply chains - in the field as well as at headquarters. The team should be equipped with a high-level authorizing head and a dedicated budget. It would also help reinforce collaboration between the ILO’s core means of action and its work to use supply chains as an entry point.
 - Strengthening research on supply chains, pooling it within a research facility and making it more visible to the outside world. Research should reflect that supply chains existed in all countries, and either focus on supply chains in countries with weak governance or examine supply chains in both developed and developing countries. It was incorrect to claim that what happened in low-skill, low-wage sectors applied to all supply chains. Research should be evidence-based, and should compare decent work deficits across all levels of both domestic and global supply chains in developed and developing countries in order to identify greatest needs.

- Launching a regularly monitored evaluation strategy for stronger measurement of outcomes of supply chain related interventions. The comprehensive supply chain strategy would require such monitoring to ensure it remained on track.
- Supporting all companies to conduct human rights due diligence by establishing a helpdesk as a one-stop-shop to provide information on the findings of ILO supervisory mechanism and country data and information. To uphold policy coherence, the draft building blocks must reflect international standards like the UN Guiding Principles and the MNE Declaration. For the helpdesk, the existing NATLEX database and the ILO Helpdesk for Business on International Labour Standards could be linked and enhanced. An expert position on labour clauses in trade agreements could be part of a cross-departmental team coordinating support and advice to governments.
- Making better use of the convening power of the ILO in addressing the root causes of challenges at the national level, building on recent successes in Uzbekistan and Qatar.
- Strengthening collaboration within the multilateral system by developing formal partnerships with the Bretton Wood institutions, regional development banks, the G7, the G20, the WTO, the ITC and UNCTAD on research and in the field.
- Identifying key areas, based on constituents needs and priorities, where ILO development cooperation could promote decent work in supply chains before organizing a donor conference to attract financial support. This was the approach used in most UN and international agencies.
- Supporting, through employer organizations, national firms and their compliance with law.
- Developing a communication strategy on the ILO's engagement on decent work in supply chains and how it linked to the ILO's core means of action, including making research and findings more easily accessible in one knowledge facility.
- Making better use of the MNE Declaration to convene national dialogues to address challenges at national level, to support employers and workers organizations to promote the principles of the MNE Declaration and responsible business conduct.

A comprehensive ILO strategy based on these building blocks would make a huge impact in addressing decent work deficits in supply chains and in positioning the ILO as a leader in the field.

- 91.** The Worker Vice-Chairperson said that her group had no objections to the use of the term “supply chains”, and fully acknowledged the existence of domestic supply chains. However, the current discussions were concerned with the specific problems related to the cross-border nature of supply chains. As its title suggested, the 2016 Conference conclusions also made that distinction. Paragraph 25 of those conclusions called on the ILO to determine whether current ILO standards were “fit for purpose to achieve decent work in global supply chains”. There was a contradiction in the Employers’ assertion that the problems of supply chains were solvable through application of national legislation on the one hand, and the group’s expressed support for the MNE Declaration and for the UN Guiding Principles on the other. The extraterritorial obligation to protect or ensure human rights in the commercial activities of MNEs was amply commented in the UN Guiding Principles’ own commentary, but also by numerous international bodies, including the Committee on Economic, Social and Cultural Rights and the Human Rights Committee. Significant information was available regarding how the UN Guiding Principles, the MNE Declaration and the OECD Guidelines for multinational enterprises dealt with the cross-border nature of business.

92. There had been a recent upturn in national, regional, and international activity aimed at obtaining a level playing field, legal certainty, and protection for workers in supply chains. The global Social Transformation Baseline Assessment noted that out of 1,000 of the world's most influential companies, only 33 per cent expressed policy commitment to respect ILO fundamental principles and rights at work. Only 27 per cent committed to respect freedom of association and collective bargaining. Many companies did not expect their supply chain suppliers to respect human and labour rights, while 29 per cent of the companies did not explicitly commit to respecting those rights themselves.
93. The ILO should take timely action based on a comprehensive strategy of normative and non-normative action to achieve decent work in supply chains. Normative action would of course be subject to further discussion, as could the form it might take - whether a stand-alone Convention, a Protocol or a Recommendation. The building blocks for the strategy should include:
- supply chain accountability and effective remedies:
 - initiate normative action to ensure accountability and remedy for worker rights violations in supply chains, including on labour rights due diligence;
 - explore normative and non-normative action to require social auditors and certifiers engaged in private inspections in the global supply chains of companies to be licenced and supervised by public oversight bodies, with guarantees for transparency;
 - explore normative action to ensure that public procurement was leveraged through laws and public contracts to ensure decent work in global supply chains;
 - ensure effective implementation of human rights due diligence in supply chains with specific reference to labour standards and rights, including the engagement of ministries of labour as well as employers' and workers' organizations in the development, adoption, and implementation of National Action Plans on Business and Human Rights through meaningful dialogue and with a focus on the protection of trade union representatives.
 - Cross-border application of standards:
 - ensure that future standard setting considered the cross-border dimensions of the relevant issue (for example, platform work);
 - promote ratification of international labour standards including through provision of technical assistance, of the fundamental principles and rights at work, as well as of relevant Conventions;¹
 - review all its programmes aimed at assisting governments, enterprises, employers', and workers' organizations to address decent work deficits in supply chains to ensure that they were fit for purpose;

¹ The Worker Vice-Chairperson listed the following Conventions and instruments: Labour Inspection Convention, 1947 (No. 81), Labour Administration Convention, 1978 (No. 150), Labour Inspection (Agriculture) Convention, 1969 (No. 129), Labour Clauses (Public Contracts) Convention, 1949 (No. 94), Violence and Harassment Convention, 2019 (No. 190), Employment Policy Convention, 1964 (No. 122), Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), Employment Promotion and Protection against Unemployment Convention, 1988 (No. 168), Home Work Convention, 1996 (No. 177), Collective Bargaining Convention, 1981 (No. 154), Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), Private Employment Agencies Convention, 1997 (No. 181), Termination of Employment Convention, 1982 (No. 158), and relevant sectoral instruments.

- the CEACR should be more proactive in taking account of the cross-border dimensions of work situations and in considering the application of standards in the context of global supply chains;
- introduce measures to address illegal and unethical recruitment practices and wage theft of migrant workers employed in global supply chains; implement the ILO general principles and operational guidelines for fair recruitment and consider elevating them into a standard.
- Cross-border enabling rights:
 - follow-up on the conclusions of the Expert Meeting on Cross-border Social Dialogue;
 - ensure that fundamental Conventions Nos 87 and 98 are understood to cover cross border freedom of association and collective bargaining;
 - take measures, including normative action, to promote and facilitate cross-border social dialogue and collective bargaining in supply chains, including support to employers' and workers' organizations as well as governments, to build industrial relations systems in line with international labour standards;
 - take measures, including normative action, to ensure cross-border application of international labour standards including effective access to freedom of association and collective bargaining throughout the supply chain;
 - take measures to ensure that workers do not face barriers to exercising their right to organize and unions do not face barriers and discrimination, including in EPZs.
- Maximizing the full potential of the MNE Declaration to address decent work deficits in global supply chains:
 - take measures ensuring effective implementation of the MNE Declaration and the UN Guiding Principles in the context international labour standards and existing programmes;
 - consider normative and non-normative measures to effectively implement the MNE Declaration;
 - the ILO should actively engage with supply chain actors, including MNEs and global union federations, to develop its sectoral approach to decent work in supply chains, and explore more sectoral supply chain interventions to complement current international sectoral initiatives, international framework agreements and related country-level initiatives;
 - promote and facilitate company-union dialogues;
 - implement measures to improve coherence and coordination of ILO activities 'across entire supply chains'; build linkages between "activities that address national-level capacities to strengthen compliance with international labour standards" and "activities directly targeting supply chain actors" by involving social partners at different levels.
- Effective enforcement and grievance mechanisms:
 - the ILO should build capacity of constituents to strengthen national labour inspectorates;
 - provide assistance to Member States to develop effective and adequately resourced labour administration and inspection systems across all sectors;
 - take normative and non-normative measures to ensure effective protection of workers, with collaboration between Member States in cross-border cases on labour inspection and access to justice;

- the ILO to consider normative and non-normative action to establish effective grievance mechanisms throughout global supply chains, including bringing constituents together for an effective operational-level grievance mechanism to ensure access to justice and remedy throughout supply chains;
- take measures regarding cross-border compensation schemes to address compensation in cases of workplace injury or disease or wage theft and severance pay;
- take normative and non-normative action to address roles and responsibilities in accountability regarding grievance and remedy in multi-employer and cross-jurisdictional supply chains.
- Root causes and trends in global supply chains:
 - explore normative and non-normative measures to ensure employment relationships with minimum protection at all levels of the supply chain, extending protection to non-standard forms of employment and taking measures to prevent misclassification and disguised employment practices;
 - collate data and information, including on the impact of purchasing and auditing practices on working conditions, regarding the operation of supply chains and their impact on decent work, including new trends which should be addressed on a continuous basis.
 - undertake targeted research to identify the links between supply chains, increasing precarity of formal jobs and the informal economy.
- Policy coherence:
 - engage with other international and multilateral organizations concerned with human rights in global supply chains to ensure that the labour perspective was appropriately addressed, and international labour standards were respected.
 - the ILO should undertake research on global, regional and bilateral trade and its impact on decent work in supply chains; take further action, including measures to ensure corporate accountability and labour protection, inclusive structural transformation and policies yielding adequate, fair, and non-discriminatory living wages and wage adjustment mechanisms;
 - take measures to ensure that EPZs or special economic or industrial zones comply with the international labour standards and fundamental principles and rights at work;
 - assist Member States who wish to promote international labour standards “within the framework of bilateral or multilateral agreements” in ensuring their compatibility with ILO obligations;
 - take measures to ensure that regional and bilateral trade agreements are leveraged to address decent work deficits in global supply chains;
 - take measures to enable ILO constituents to play an important role in making social dialogue, especially cross-border, relevant and inclusive and effective.
- 94.** The Government spokesperson endorsed the smart mix of normative and non-normative measures. The draft building blocks should include a range of options, on normative and non-normative measures, including areas where consensus had not been reached. The Working Group could count on the strength of social dialogue to define the blocks. The Governments as a group strongly supported the ILO taking a lead role in this area.
- 95.** The building blocks should take account of the paradigm shift in the trend towards due diligence legislation; the difference between employment relationships and business relationships and how

the ILO standard supervisory system could adapt to that reality. They should directly respond to the situation where goods and materials and services involved several distinct and different employers and crossed borders, since labour governance structures mostly applied to specific employee or worker–employer relationships and were principally restricted to application within the national jurisdiction where the act of work took place. They should strengthen the state obligation to protect human rights, including through ratification and implementation of international labour standards, and also corporate responsibility to respect human rights, through labour rights due diligence, and access to effective remedy.

96. The draft building blocks must acknowledge the power dynamics at play in supply chains and the position of those states and workers at the lower levels of supply chains and seek to better connect all levels of the supply chain, including buyers and suppliers. Collective bargaining, freedom of association, tripartite cooperation and social dialogue, and the fundamental principles and rights at work were key. They should cover data collection; research, including to address the root causes of decent work deficits in supply chains; information sharing; and the development and dissemination of best practices. They should encourage a One-ILO approach to addressing decent work deficits in supply chains under ILO programmes and through technical assistance and strengthen labour administration capacity. They should include collaboration with other multilateral institutions and cooperation with MNEs and SMEs, build on the international consensus obtained by the UN Guiding Principles and the MNE Declaration and propose measures to achieve policy coherence.
97. The Government representative of Sweden, speaking on behalf of the EU and its Member States, said that the draft building blocks should clearly describe the binding and/or non-binding measures on decent work in global supply chains that should be taken. The building blocks of the strategy must be complemented by robust and concrete measures based on research and analysis carried out by the ILO and other relevant bodies, and predicated on international labour standards, guidelines and other instruments and frameworks within the multilateral and national spheres, including responsible business conduct, due diligence and enforcement and remedies. International labour standards did not typically seek to regulate responsible business conduct, either within one jurisdiction or between jurisdictions.
98. The aspect of cross-border movement of goods and services should also feed into the strategy as an integral component to ensure all efforts were made across the supply chain to advance and promote decent work. Research into and analysis of supply chains were essential and data collection, disaggregated by sex, and data and knowledge sharing should be further developed. The draft building blocks should include provision of technical support and capacity building, the systematic use of DWCPs and different national and sectoral level drivers. It should include mapping and analysis of legislative initiatives and business practices, multilateral cooperation, and assessment and exchange of best practices.
99. The 2016 Conference conclusions called on the ILO to consider whether its body of standards was fit for purpose to achieve decent work in global supply chains. It should now examine how it could complement and add to the legislative trend towards protecting human rights along global supply and value chains. To support coherence, it was critical to build on the common understanding and clarity provided by the UN Guiding Principles and framework that was already integrated in them, such as the OECD guidelines and the ILO MNE Declaration. The ILO should continue cooperating with the Office of the United Nations High Commissioner for Human Rights (OHCHR), the OECD and other multinational organizations to promote responsible business. Capacity building and technical assistance in production countries to support state actors and social partners were critical. The ILO should engage with the private sector, including MNEs, pool its resources and ensure a holistic approach.

- 100.** The Government representative of Argentina called for economic growth with equity and fair trade. A global, tripartite, and comprehensive strategy for decent work in supply chains was therefore needed and should include the following:
- protection and promotion of labour and human rights, social justice, and fair trade. State capacities to protect rights and improve decent work throughout the value chain must be strengthened;
 - transition from informality to formality, including through promotion and implementation of Recommendation No. 204. A comprehensive approach should be adopted to the causes and factors of informality, with strengthened social protection systems;
 - strengthened multi sectoral, institutionalized social dialogue;
 - policy coherence giving work a central place, with labour clauses included in free trade agreements and public-private contracts. Dialogue between the different public administrations should be promoted, with people at the centre of public policies;
 - the role of international cooperation and cross-border dialogue, critical to finding common ground toward achieving decent work and sustainable development.
- 101.** The Government representative of Canada noted that an ILO strategy on decent work in supply chains needed to be in line with the Organization's programme of action. Generation and dissemination of knowledge was vital for the ILO to become a global knowledge centre and source of evidenced-based policy advice. That knowledge should inform technical assistance and on-the-ground programming to address labour rights violations at the source. The ILO should further engage with international financial institutions on the issue of supply chains.
- 102.** Free trade agreements should include comprehensive and enforceable labour clauses, which could be instrumental in advancing the strategy. They could also create a framework for capacity-building, technical assistance, cooperation and collaboration on issues of common interest. The ILO should work closely with other relevant international organizations, particularly the WTO in that connection. The Organization should better identify sources of labour rights violations while promoting the realization of the right to organize and to collective bargaining for workers.
- 103.** A standard would help the ILO assist constituents in the promotion of responsible business conduct, supply chain transparency and due diligence and remediation and ensure that national due diligence obligations included labour rights. The strategy should support national efforts through the provision of technical assistance. The ILO could further assist tripartite constituents in advancing workers' rights; consumer awareness; changing behaviour and enhancing compliance; monitoring and evaluation of evolving methods of addressing decent work deficits in supply chains. Given business's increasing interest in due diligence tools, including risk traceability tools and platforms, the ILO should advance global research and tool development, taking existing initiatives into consideration, and leveraging its in-country presence and monitoring to inform such work.
- 104.** The Government representative of China suggested that the draft building blocks could include three parts:
- setting the scene through a balanced description of the current situation and trends at both domestic and international level. Root causes should be included, and note taken of the positive contribution of supply chains to economic growth and employment;

- building on the 2016 Conference conclusions, fixing governments', employers' and workers' roles and responsibilities, and areas for tripartite collaboration at sectoral, national and international level. Account must be taken of national circumstances;
 - a list of concrete normative and non-normative, action-oriented measures to be implemented by the ILO, including:
 - further improving the standards supervisory system to enhance dialogue and cooperation in good faith;
 - targeted technical assistance to enhance government capacity to implement ratified standards and monitor compliance through stronger national labour inspection;
 - technical assistance to facilitate dialogue between governments, enterprises and civil society organizations and other relevant stakeholders in the upper tiers of the value chain and those in the lower tiers, particularly, in developing and emerging-market countries;
 - encouraging enterprises in the supply chains to incorporate CSR in business operations;
 - data collection from reliable sources and sharing good practices;
 - resource mobilization and well-designed development cooperation programmes including through South-South and triangular cooperation;
 - policy coherence, collaboration and coordination among regional, UN and other relevant international institutions.
- 105.** The Government representative of the United States said that an ILO supply chains standard should aim to prevent rights violations and provide for access to remedy. It should promote coherence in regulatory measures taken at national and supra-national levels and complement and add value to leading instruments in the field, including the UN Guiding Principles, the OECD Guidelines, the OECD Due Diligence Guidance for Responsible Business Conduct, and the MNE Declaration. It should leverage ILO's tripartism and concentrate on freedom of association, collective bargaining, social dialogue, and the world of work, with a focus on vulnerable or disadvantaged groups, including human rights defenders. It should take account of national circumstances. Due diligence required an implementation, monitoring and compliance mechanism focused on transparency, collaboration and social dialogue and freedom of association. Other than due diligence, the standard might use enhanced supply chain transparency and trade tools and trade agreements to promote respect for workers' rights.
- 106.** DWCPs should link national-level and sector-level interventions to heighten these interventions' relevance and effectiveness and the ILO should collect data to identify which supply chains provided a strong entry point to advance decent work. It should coordinate closely with the tripartite constituents and the private sector to advance its supply chains work and leverage the methodologies to map and survey sectoral supply chains within a country, producing a detailed picture of all linkages and social and economic conditions across tiers in the chain.
- 107.** The ILO should take care to link the normative and non-normative components of the strategy and focus on building capacity, technical assistance for developing countries and support and guidance for enterprises. Labour administrations, mediation and arbitration systems and the judiciary had an important role to play.
- 108.** The Government Representative of the United Kingdom said that the ILO should:
- step up its promotion of the ratification and implementation of existing ILO standards, including through technical assistance and its supervisory system;

- promote greater policy coherence and better alignment between related decent work priorities, including collaboration between multilateral agencies, and with initiatives such as the UN Global Compact Action Platform on Decent Work in Global Supply Chains;
 - engage more fully with the broader international trade architecture and in particular with the WTO. It should continue to promote the inclusion of labour standards in bilateral and multilateral trade agreements.
- 109.** Additional tools, guidance and capacity-building could be used to raise awareness and assist businesses in carrying out due diligence. The ILO should promote transparency and due diligence in public sector supply chains. Tripartite social dialogue should be strengthened at all levels. The ILO should enhance its research, analysis and knowledge development work on global supply chains.
- 110.** The Government representative of Bangladesh said the chapeau of the draft building blocks should set out the challenges in supply chains, the gaps in normative and non-normative measures and the role of governments, social partners and the ILO. It should be grounded in ILO guiding texts including the ILO Constitution, the Philadelphia Declaration, and the Centenary Declaration. It was crucial to:
- establish criteria for the goods and services targeted;
 - determine the relationship between the goods and services, and their impact on the workers producing them;
 - clarify the interlinkages between suppliers and buyers to establish their responsibilities and obligations;
 - recognize national and local contexts.
- 111.** Further important aspects for the building blocks included ensuring living wages, equitable distribution of profits, cooperation with developing countries to support social protection schemes. The relationship between buyers and suppliers should be one of shared responsibility to ensure labour rights. The ILO should promote information sharing and best practices through technical assistance to the tripartite partners and provide capacity building. The introduction of advanced technology must be through technology transfer and accompanied by training and skills development. Collective bargaining must be engaged across the supply chains to ensure labour rights. The MNE Declaration should be taken as a guiding instrument. South-South, triangular and multilateral cooperation should be promoted.
- 112.** The Government representative of Mexico emphasized the importance of social dialogue, freedom of association and collective bargaining. Corporate social responsibility should be encouraged, for example by recognizing enterprises that practiced it. Production companies must comply with national labour legislation, with monitoring, technical assistance, and possibly complaints resolution by the ILO. Training for the tripartite partners, and research into problems and good practices in sensitive supply chain sectors should be reinforced.
- 113.** The Government representative of Germany pointed out that the UN Guiding Principles and the MNE Declaration were the global standards on business responsibility, and that the building blocks could not fall behind this global consensus. Corporate responsibility existed independently of states' abilities or willingness to fulfil their human rights protection obligations, so all businesses should put in place mechanisms to comply with human rights protection. Those operating in high-risk contexts must make extra efforts to ensure compliance. The UN Guiding Principles had been intended to help generate new regulatory dynamics, creating a mutually

reinforcing protection framework. To reflect the UN Guiding Principles, the building blocks must include a smart mix of national and international, normative and non-normative measures to ensure respect for labour rights. The prevention of, and access to remedies for, business-related labour rights violations must be at the core of any new normative measures.

- 114.** The Government representative of the Philippines said that a smart mix of normative and non-normative measures must be put in place. At the country level, increased efforts must be made to ensure that ratified Conventions, especially the core Conventions, were implemented. At the international level, continuous advocacy for relevant Conventions was necessary. As non-normative measures, DWCPs could target specific sectors in supply chains where vulnerable employment and informality were widespread. There was no one-size-fits-all supply chains strategy. Strong collaboration between the tripartite partners, local stakeholders and actors was required. The DWCPs could be used for knowledge and best practice sharing among Member States.
- 115.** The Government representative of Senegal supported a standard that was clear, easily enforceable, realistic and easily ratifiable. Labour administrations must have the legal and organizational powers necessary to apply labour standards. The strategy should include ILO technical assistance programmes at the regional or sub-regional level, to support labour market institutions and improve their operation in global supply chains; support for legislation in Member States; targeted programmes in different regions; and training and awareness-raising for MNE directors regarding decent work deficits in supply chains. The strategy must clarify the relationship between profit, productivity, and decent work. It should also cover the issue of the informal economy, in line with Recommendation No. 204, and be coherent with all ILO instruments, including the MNE Declaration.
- 116.** The Government representative of Morocco said that the draft building blocks should include:
- ILO support to Member States in assessing their levels of informal employment, the prevalence of decent work deficits across different sectors of activity, and in identifying areas of supply chains propitious to formalization and decent work;
 - focus on individual supply chains for tailored solutions, to allow actors at local, national, sectoral, regional and global levels to take integrated and coordinated action;
 - creating and sharing tools and best practices to ensure stakeholder accountability;
 - reinforcing labour administrations, especially inspectorates, to enable them to cooperate internationally;
 - strengthening the capacities of national focal points for the MNE Declaration;
 - strengthening networks on thematic areas covered by the ILO to allow interaction with the private sector and trade union representatives;
 - a smart mix of normative and non-normative measures, focusing on existing standards. New normative action must consider the transnational scope of certain supply chains, and integrate the guidance of the UN Guiding Principles and the MNE Declaration;
 - the standard must cover the new forms of work and employment, prevalent in supply chains;
 - integration of the work to promote social dialogue and fundamental principles and rights at work under the DWCPs and more broadly in ILO development cooperation programmes.
- 117.** The Worker Vice-Chairperson said that the time had come for a reality check. Her group was in direct contact with the workers on the ground. Among the group, a representative of the

International Unions of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations (IUF) was able to confirm that agriculture workers were often left without employment protection by their national legislation. Many of those workers were part of the global supply chain providing food, beverage, and many other products to the world. The Employers' group position that national legislation provided sufficient protection to workers was thus difficult to understand. All food companies depended on transport within and between countries. Much of that transport was subcontracted. There was growing concern among the MNEs themselves regarding this outsourcing process, which generated long subcontracting chains. It had become hard to monitor whether workers' employment conditions, wages and working time, were acceptable. Certain MNEs had begun to be interested in improving decent work in their supply chains across borders. The evidence showed that business itself was starting to wake up to the fact that it needed to respect labour and human rights due diligence. The ILO also reported that many MNEs were consulting it for advice on employment conditions in their supply chains.

- 118.** In an example reported from Zambia, where long subcontracting chains meant that workers often did not know their direct employer, let alone the main buyer, the union discovered that the parent, foreign company, had included a conditional clause prohibiting unions in its agreements with the subcontracting companies. Even if that parent company had its headquarters based in Switzerland, where the Employers had upheld that Swiss rules applied in Swiss companies and where, according to the Employers, there was no indecent work, it was uncertain that the Government of Switzerland could compel that company to ensure that its partners further along the supply chain in Zambia guaranteed trade union rights. However paragraphs 12 and 66 of the MNE Declaration placed an obligation on governments, national and multinational enterprises to respect human and labour rights.
- 119.** Governments unanimously agreed that specific problems beset supply chains with a cross-border dimension. However, the Employers indicated that the only problem was weak governance at the national level, which could be remedied by investing in better enforcement. They did not recognize business' contribution to weak governance, for example the way in which enterprise put pressure on governments by making foreign direct investment conditional on low levels of social rights. And yet, in view of the support the Employers' group had expressed for the UN Guiding Principles, the OECD Guidelines and the MNE Declaration, there must be some common ground. Indeed, many companies had recognized decent work deficits in supply chains and had cooperated with unions and governments to improve matters. The best way to move forward would be to seek the common ground, as governments, coming from different continents, with different social and economic realities, had managed to do together. Both the Employers' and Workers' groups could see that there was a very strong understanding in the Government group in support of a smart mix of normative and non-normative measures, in line with the trend towards mandatory due diligence legislation.
- 120.** It was not necessary to address domestic supply chain in the building blocks. As indicated by the Government representatives of Senegal and Morocco, strengthened labour inspection and labour administration would benefit everyone and ensure decent work across the board. It was especially important in the context of global supply chains but would of course also benefit the situation in domestic supply chains. The emphasis must be on the major challenges of cross-border supply chains. In its hundred-year history the ILO had addressed most decent work challenges from the perspective of the national challenges, overcome through national legislation. New issues had arisen in the 21st century that required new solutions.
- 121.** The Employer Vice-Chairperson was not convinced by the Worker's group version of reality. Agriculture, for example, took place on land inside a country's jurisdiction where the government

and labour law must enforce the fundamental principles and rights at work for all workers. There had been no omission by the Employers regarding the UN Guiding Principles or in respect of CSR. These texts applied to enterprises of all sizes everywhere and employers had not attempted to negate that.

- 122.** The Employers supported the need to find common ground. Since 2016 there had been discussion regarding whether supply chains, domestic or global, were new, and whether they were sufficiently covered by international labour standards, or if there were gaps in the ILO normative and non-normative frameworks. The 341st Session of the Governing Body (March 2021) had addressed this question and had clearly stated the need to look at “supply chains”, rather than “global supply chains”. Most decent work deficits in supply chains occurred at the domestic level, as the gap analysis demonstrated. Companies, for their part, could comply with national law social compliance systems and human rights due diligence in line with the UN Guiding Principles without there being need for an ILO normative instrument.
- 123.** The Employers supported non-normative action to build capacity for making social auditing more effective. Likewise, capacity building could be brought to bear on public procurement issues. A tripartite working group could not anticipate what future Conferences would decide or on what issues would be dealt with in standard setting and should not seek to engage the ILO in considering standard setting on a putative cross-border dimension in supply chains. The Organization should promote the ratification and implementation of fundamental Conventions, but not all those on the long list proposed by the Workers. The Committee of Experts could not be ordered to take a specific approach: as the Centenary Declaration stated, the ILO should be equipped with a clear, robust, up-to-date body of international labour standards. The group gave its full backing to strengthening ILO engagement on ethical recruitment, but not to elevating the ILO general principles and operational guidelines for fair recruitment into a standard. The group supported the conclusions of the Expert Meeting on Cross-border Social Dialogue and did not agree with the Workers’ proposals on cross-border enabling rights. The MNE Declaration should be promoted through non-normative means, but not transformed into a standard. Sectoral initiatives could be a useful entry point for promoting ILO fundamental principles and rights at work, but efforts should focus on SMEs, building resilience and productivity, not only on MNEs.
- 124.** The Employers supported raising awareness of the MNE Declaration’s company-union dialogue procedure, but the creation of more fragmented approaches by developing other grievance mechanisms should be avoided. The group wholeheartedly supported linking ILO supply chain activities better with the Organization’s core means of action; building labour administration capacities across all sectors; promoting stronger South-South cooperation; support to Member States in extending protection to all workers; and tackling informality. The ILO did not need to take normative or non-normative action to create further grievance mechanisms or cross-border compensation schemes, nor was there a challenge linked to the multi-employer context in supply chains and consequently there was no need to further clarify roles and responsibilities in this regard.
- 125.** The ILO should collect data and information on the contribution of supply chains to decent work. However, the proposed research focus suggested by the workers was not required. There was a general need for data collection, but the research focus should be determined later. Policy coherence across multilateral systems would help promote international labour standards. The Employers proposed concrete follow up to the conclusions of the experts’ meeting on EPZs, but without exceeding the mandate of the conclusions. There was no added value in a supply chain Convention. The focus must be on human rights due diligence under the UN Guiding Principles. Renewed commitment to advance decent work everywhere for everyone, including in supply chains, domestic and global, was paramount.

- 126.** The Government representative of Bangladesh emphasized the importance of capturing five elements in the building blocks.
- interlinkages between suppliers and buyers;
 - relationships between goods and services produced;
 - characteristics of goods and services;
 - fair pricing of goods and services;
 - fair and equitable sharing of profits among those working in supply chains.
- 127.** The Government spokesperson emphasized the expectation that the draft building blocks would include a range of options for normative and non-normative measures, including in areas where consensus was yet to be reached.
- 128.** The Government representative of Cameroon noted that domestic supply chains posed fewer problems in developing countries than global supply chains, as there was a certain amount of respect for central authorities. In response to the Worker Vice-Chairperson, he noted that decent work deficits did not only exist in the agricultural sector but concerned multinational enterprises in general. MNEs were powerful entities, and the present discussion concerned their international relations and possible influence on national policy. MNEs frequently originated in developed countries, with their chains going into developing countries. Their treatment of the national authorities in countries where they operated was sometimes condescending. It included hindering effective labour inspection, and not complying with trade union freedoms. The ILO should increase efforts to raise employers' awareness that fundamental rights at work were human rights and had to be respected as such. MNEs in global supply chains respected neither domestic laws, nor international labour standards, as they were mainly driven by a profit motive. It might be advisable to orient towards a Convention on labour inspection in supply chains. The war in Ukraine and the COVID-19 pandemic were important global developments, but Africa was and had been heavily impacted by wars and armed conflicts in many countries, though they attracted less international interest.
- 129.** The Government representative of Senegal noted that despite clear differences of opinion, elements of consensus had appeared, notably on the need to protect workers in global supply chains. There was support for putting the MNE Declaration to better use, for the promotion, ratification and implementation of international labour standards, and the need to transition from the informal to the formal economy.
- 130.** The Government representative of South Africa called upon delegates to consider that the ILO and its supervisory mechanisms had to adapt to a changing environment to avoid becoming irrelevant. Delegates had accepted that currently, ILO Conventions focused on employment relations within countries, rather than across borders, and that labour standards failed to regulate employment relations in global supply chains. There was no need for additional research to establish this fact. There was scant logic in calling for the promotion of labour standards that were increasingly falling short of their initial purpose. A state-centric approach was ineffective in finding solutions to cross-border issues. It also challenged the definition of an employer. Supply chains themselves should be seen as the employer. Several countries and organizations had passed laws imposing mandatory due diligence measures on enterprises, which were prepared to be bound by these laws. Why should they not do the same to protect decent work? Failure to do so contradicted the Centenary Declaration with its aims to promote a human-centred approach. The failure to update the ILO's work meant that the ILO would become sidelined in discussions of international importance. A template for cross-organizational involvement already existed with

the WHO Framework Convention on Tobacco Control, which had had an impact on the ILO. The type of instrument responding to decent work deficits in global supply chains should be applicable to other multilateral organizations. Supply chain challenges were new and different and must be addressed in innovative and different ways.

- 131.** The Government representative of China stated that existing international labour standards could address issues within global supply chains. In respect of cross-border enabling rights, the facilitation of cross-border dialogue and tripartite cooperation would be beneficial in addressing decent work deficits in supply chains. The building blocks produced by the Working Group should not exceed the mandate of the ILO: some elements risked infringing the sovereignty of Member States. The goal was to address decent work deficits wherever they might be. Supply chains could be an entry point, or a means, but not the end. The focus should be on the effective implementation of current international labour standards rather than on the development of a dedicated labour standard for supply chains. Human rights due diligence was a widely accepted practice which should be promoted, taking national context into account, without developing mandatory due diligence labour standards. It would not be appropriate to adopt any normative measures regarding social auditors and certifiers. Rather, measures to increase their transparency and credibility should be pursued, in order to ensure objectivity. Entities should be held accountable for the results of their auditing. There appeared to be agreement in the Working Group on the provision of technical assistance to Member States, in particular to strengthen the capacity of labour administration; the reinforcement of policy coherence between the ILO and other international organizations; and the importance of development cooperation programmes.
- 132.** The Government representative of Sweden, speaking on behalf of the EU and its Member States, emphasized that all countries wanted to achieve decent work everywhere. In many countries, including certain EU Member States, there were legislative developments which placed an emphasis on due diligence as a method of ensuring decent work and adherence to the fundamental principles and rights at work. In the UN Guiding Principles, it was also stated that there should be a smart mix of regulatory and voluntary approaches at the international level. The ILO should therefore address that trend in its approach and policies.
- 133.** The Government representative of Senegal supported certain aspects raised by the Government representative of Bangladesh, in particular the interrelation between the different actors of the economic cycle and the fair and equitable sharing of profits in global supply chains, taking workers' needs into account.
- 134.** The Government representative of Canada called on the Working Group to reflect on what it wanted to achieve. The world looked to the ILO for its tripartite expertise and social dialogue at international level. The shortcomings of the voluntary measures that had been relied on for decades had become apparent, and this had led an increasing number of countries to putting mandatory due diligence in place. If the ILO did not act to ensure a common approach to facilitate compliance with the multiple due diligence regimes, it would lose its place as the authoritative organization in the world of work: other organizations would step up to the plate. Indeed, other organizations were already putting actions in place to address governance and environmental issues. The ILO should ensure that labour rights were front and centre. The establishment of some minimum due diligence obligations might enhance responsible business conduct, and if that were the case, then the Working Group should include that among its building blocks.
- 135.** The Government representative of the United States endorsed a smart mix of normative and non-normative measures to address the gap in tackling decent work deficits in supply chains. The Working Group had expressed strong belief in the value of social dialogue. It should exert all efforts to address even the most challenging topics, such as the issue of normative measures, to

ensure that the full range of inputs expressed was reflected in the draft building blocks. The draft building blocks should indicate where there was consensus and where not, to make progress on those issues possible. The Working Group should avoid a blame game and adopt a positive approach, because global supply chains presented a great opportunity for achieving decent work in an area where there were deficits. Governments and employers had a shared responsibility to do all they could to leverage that opportunity and achieve greater respect for fundamental principles and rights at work and greater decent work opportunities for workers around the world.

- 136.** The Government representative of Morocco supported the adoption of a smart mix of normative and non-normative measures, as well as the points raised by the Government representatives of Bangladesh and Senegal. Implementation of international labour standards should of course be promoted and reinforced, but as Canada had indicated, the purpose of the Working Party was to engage in social dialogue to ensure their enforcement on a transnational basis.
- 137.** The Government representative of Argentina noted that governments and countries were in different situations, but there was a universal obligation to share wealth more equitably. Tripartite social dialogue would show the way forward. Some MNEs applied due diligence in supply chains, but the ILO should show leadership in this area, as this was a global issue that could not be addressed nationally. Decent work in supply chains could not be achieved without social protection and should be addressed through a smart mix of normative and non-normative measures.
- 138.** The Government representative of Mexico agreed that the existing normative and non-normative framework was not sufficient. The building blocks must help take decent work issues further. The relationship between suppliers and buyers must be taken into account with a view to an equitable sharing of profits.
- 139.** The Worker Vice-Chairperson trusted that the Office draft building blocks would refer to and build on the contributions from all constituents and provide options to ensure that ILO standards were fit for purpose and delivered decent work. It was very clear that after many years of attempting voluntary measures, and recognizing their importance, their limitations could also be seen. It was encouraging to hear the Government group support for addressing their shortcomings in the building blocks.
- 140.** The Employers' group continued to read the gap analysis differently from the Workers' group, by maintaining that the biggest problem was the enforcement of national legislation and regulations. The gap analysis clearly recognized the special problems, challenges and complexities arising from the cross-border nature of supply chains, including its multi-party, multi-jurisdictional dimensions. The task before the Working Group was to establish whether the body of ILO standards was fit for purpose in addressing supply chains, not to provide decent work to everybody everywhere.
- 141.** As the Government representative of Bangladesh had upheld, it was essential that decent wages should be guaranteed for workers in the business cycle in a fair and equitable fashion, and that the relationship between buyers and suppliers should be based on shared responsibilities.
- 142.** The Workers' group had not intended to suggest that the agricultural sector was the main area where decent work deficits were concentrated but had simply used it as an example where the cross-border nature of the issue was apparent. The challenges were common to many sectors.
- 143.** The Government representative of Cameroon had suggested a standard on labour inspection in supply chains. The Workers were uncertain as to whether that was the answer but agreed that the building blocks should reflect the challenge of cross-border labour inspection. Whether that issue should be tackled by a Convention, Recommendation or Protocol remained in the air. Labour

inspectorates in developing countries should be given adequate resources. Rather than give tax exemptions to MNEs, those enterprises should contribute more to support labour inspectorates in the countries where they operated, instead of competing for the cheapest labour.

144. The Government representative of China had been concerned that cross-border social dialogue might interfere with national sovereignty. However, the Workers were talking about dialogue between the social partners, business and unions, negotiating and engaging in collective bargaining. As such it would not interfere with national sovereignty. The draft building blocks must recognize the importance of social dialogue as a key tool, enabling right and very relevant to decent work in supply chains. Social auditing was an area in which standard setting could be useful, and that element should be included in the building blocks.
145. The Workers' group expected the building blocks to take the conversation one step further, and to assert the ILO's primacy in the field of labour rights, not leaving this important topic to other organizations. The world of work had changed, and the ILO must adapt to the new challenges.
146. The Employer Vice-Chairperson said that consensus needed to be founded on ambitious, realistic and relevant building blocks for a comprehensive strategy for promoting decent work everywhere. There were no gaps in the ILO's body of standards, but there were gaps in implementation at national level, as the gap analysis, which was a very recent document dating from barely six months previously, set out.
147. Legislative developments were taking place, and the Employers' group supported them. The group had helped to draft the UN Guiding Principles, which clearly set out due diligence obligations and the need for remedy. The Employers' group had globally recognized and endorsed both those obligations. The Government representative of Canada had noted the failure of voluntary initiatives in ensuring decent work in supply chains, however it was widely acknowledged that voluntary initiative were complementary, useful tools, although they did not substitute strong government action and responsibility.
148. The fact that the ILO gap analysis indicated that there were no gaps in the body of standards should not mean that ILO could not develop an effective strategy. The Employers agreed with Morocco that answers had to be based on tripartite social dialogue, and that the building blocks drafted by the Office should be based on consensus. The previous Technical Meeting on achieving decent work in global supply chains (Geneva 25–28 February 2020) had failed because the Office draft conclusions had been a "laundry list" of items on which there was no consensus.
149. Supply chains were not governed by only one employer. They had multiple employers, each with responsibility under national law. The world had indeed changed, but the responsibility of employers to carry out their duties under national law remained a constant. Companies needed to look and understand their responsibilities under the UN Guiding Principles and to apply due diligence, to avoid challenges that were perhaps not adequately addressed through national law. If countries had fully implemented and enforced the international labour standards embedded in their national laws and problems still persisted, then there would be an argument for a new approach; but that was not the case. Different countries had different concerns, and the Employers' group agreed with those participants that had spoken of shared responsibility and the intersectionality of responsibilities. It was important to leverage the power of social dialogue and to work together to achieve consensus.

Discussion of the draft building blocks

[The Office produced a set of draft building blocks on the basis of the discussions reported above. The draft was shared with the members of the Working Group for discussion in their group meetings.]

- 150.** The Worker Vice-Chairperson stated that the draft building blocks produced by the Office were not a reasonable basis for discussion. Hitherto, the group had always relied on the Office to listen to the constituents and reflect their intent. In this case, the Workers' concerns did not seem to be addressed in the draft, and their words were taken out of context. Many difficult discussions had been held at the ILO, including that on Convention No. 177, where the Employers' group had left the room. That 1996 discussion had sought to solve the problems of the lowest tier of the supply chain. It remained the first and only Convention dealing with the informal economy: 25 years on, the same issues were still on the table.
- 151.** The current draft failed to address some very important issues. It should at least have recognized that the cross-border nature of many supply chains posed additional layers of complexity and problems to all, including business, especially to those wishing to conduct business responsibly. Recent OECD Trade Union Advisory Committee reports showed that MNEs were not cooperating with national contact points for the OECD guidelines when good offices for mediation were offered in a voluntary context. Consequently, the draft building blocks should at least acknowledge that voluntary measures had limits. Recent trends towards the adoption of international legislation, which had been mentioned by the Government group, should also be taken into consideration. The current draft gave the impression that the ILO did not see the need for anything beyond voluntary measures. The draft provided no foundation whatsoever. It also lacked an introduction defining the issue and stating why it was being discussed.
- 152.** The Employers' group had consistently misquoted the gap analysis, which did not refer only to domestic problems and domestic enforcement. On the contrary, it indicated that there were additional layers of problems related to the cross-border nature of the multitude of supply chains. Moreover, domestic and global supply chains were frequently interlinked. The Government representative of Cameroon had clearly stated that MNEs were exercising pressure on national governments, making foreign direct investment dependent on weaker labour rights. That had been denied by the Employers.
- 153.** The draft should have an introduction, for example based on the Declaration of Philadelphia, affirming that poverty anywhere is a problem everywhere. The 1919 provisions of the Versailles Treaty also explicitly referenced cross-border responsibilities related to commercial or industrial activities. The Employers continued to deny this, though the same point was confirmed in the UN Guiding Principles, the OECD Guidelines and the MNE Declaration. The Workers group would never sign a document that did not confirm the ILO's normative mandate.
- 154.** The draft indicated that action needed to be taken, without making clear the purpose and direction of the action. The guidance and support of the Office seemed to be directed only at Member States, rather than all constituents. International labour standards should not only be up to date; they also needed to be geared towards the future of work and the changing world of work, a point raised by many governments. During the discussion on standard setting, the Workers' group had consistently argued that future standard-setting needed to take account of the cross-border nature of supply chains. Governments had generally supported that view, while wishing account to be taken of national circumstances. The draft building blocks only retained national circumstances: not the need to consider the growing globalization of work and trade.
- 155.** The MNE Declaration had full tripartite support. It recognized both the responsibility of business and the need for governance by states. Yet the draft building blocks mentioned neither the responsibility of business nor the involvement of stakeholders.
- 156.** There was no need for a new Helpdesk, as one was already in place. Steps should be taken to establish a service of some sort, it should not provide support only to companies, but also to all other stakeholders, including unions and NGOs, to help ensure due diligence across the supply

chain. Neither was a new framework for development cooperation required. The system in place functioned correctly.

157. The draft suggested that the root causes of decent work deficits in supply chains were simply due to failures in governance and to informality. However, the Committee of Experts had indicated that global supply chains led to an increase in informality. The rich discussion held during the meeting showed that the causes were more complex, as did much research conducted in that connection, including by the ILO. In terms of collective action, the draft referred only to the need to strengthen governance and public institutions. It again omitted the responsibility of business.
158. There had been wide support for social dialogue, collective bargaining, and freedom of association as enabling rights to combat decent work deficits, yet there was no mention of such enabling rights in the draft text. Regarding policy coherence, the opinions of the Government and Workers' groups were insufficiently reflected. The draft mentioned offering guidance on ILO tools and instruments but did not refer to an ILO tool on auditing, which was much needed. Despite support from the meeting for a sustainable strategy, the draft did not appear to lead to any strategy.
159. Many trade unions and workers' representatives were working on a daily basis to improve the situation of workers in global supply chains. A great deal more had been done than was reflected in the draft building blocks. International framework agreements had been concluded with MNEs that contained stronger language, together with mandatory legislation introduced by governments. The ILO should be at the forefront of this trend, not in a very weak rearguard. It should give multinational and multilateral leadership on this important issue, and act as the Workers' fortress, providing hope. The Workers would never accept outcomes that would weaken the ILO by ignoring current trends. The Workers would engage but would not accept a document that did not recognize the normative mandate of the ILO, the cross-border nature of many supply chains and approaches oriented to the future of work, taking on the concerns of all constituents into consideration, not reflecting those of only one group.
160. The Employer Vice-Chairperson requested that her group's dissatisfaction with being attacked by the Worker Vice-Chairperson before even making a statement be recorded in the report. Her group and the arguments it had made on the basis of information from the Office had been mischaracterized. The Employers were sincerely committed to attaining a positive outcome. The group had never said that the focus should only be on domestic supply chains and had never failed to recognize the shared responsibility for all in eliminating decent work deficits in supply chains. The purpose of drafting was to discuss the issues raised by the draft text shared by the Office together, jointly. The group had been treated in a disrespectful and unacceptable manner. While her own relationship with the ILO had not been as long and distinguished as that of her Worker counterpart, she was well versed in ILO history and understood the importance of tripartite partners treating each other appropriately. More progress would be made in that way.
161. Referring to the exchanges on discussion point 3, many common points had been voiced on which the drafting process could build. The Office text also included some elements on which there had been no agreement. The shared aim of the Working Group was to identify ambitious, relevant and realist building blocks in tripartite consensus. All present should engage in constructive discussions to ensure a successful conclusion to the meeting.
162. The Government spokesperson said his group was disappointed with the draft building blocks. Governments represented a broad set of views yet had presented a clear position as a bloc. The text did not reflect the clear consensus positions put forward by the Group. Governments wanted the text to reflect the call for a smart mix of normative and non-normative measures to tackle decent work deficits in supply chains, with a range of options on normative and non-normative

measures, including in areas where consensus was yet to be reached. The draft gave no context and failed to describe the challenges and the transnational nature of the issue at hand. The draft could be the basis of a discussion but had to be strengthened significantly. Other missing aspects included a response to the gaps that had clearly been stated to exist, an acknowledgement of the trend to regulate due diligence, clearer guidance for countries seeking to ensure decent work, a path forward on the need for remedy, reflection of the transnational nature of the challenge, and consideration of the business relationship as opposed to the employment relationship. The draft put the ILO in a weak position. The means of action section of the draft should reflect the discussion on normative measures and gaps in international labour standards. The Government group proposed submitting a draft preamble for the building blocks that would provide context and define the issues. The group would work on that text during its upcoming group meetings.

- 163.** The Worker Vice-Chairperson said that hitherto she had never been accused of lack of respect. Her group had asked her to make her previous statement on its behalf. Workers and trade union representatives had encountered many businesses that were willing to work with them on the decent work deficits in supply chains. The Employers' Group had certainly said that they wanted to focus on domestic enforcement and regulation with governments at the national level. A section describing the opportunities and challenges of decent work in supply chains was missing from the draft building blocks, and her group supported the Government group's proposal to submit a draft preamble.
- 164.** The Employer Vice-Chairperson stood by her comments and her views of the tone adopted by her Worker counterpart.
- 165.** The Working Group discussions were suspended to allow the groups to draft their amendments to the Office text, and for the Government group to draft the proposed preambular paragraphs.

Part 3: Means of action to ensure decent work in supply chains

- 166.** The Working Group agreed to a government proposal to consider Part 3 of the text: "Means of action" first, as it was likely to give rise to the most debate. However, the Employers expressed a preference for proceeding through the text paragraph by paragraph, while the Workers said that certain of their proposals would be subject to the preambular paragraphs still to be proposed by the Government group. On that understanding, the Working Group took up its drafting exercise.
- 167.** The draft Office text of Part 3 read as follows:

Part 3: Means of action

A fully coordinated, ambitious and holistic 'One-ILO' global strategy that is a smart mix of responses to optimize the outcomes of the ILO's work to ensure decent work in supply chains, taking advantage of its tripartite structure and standards system and using all available ILO means of action:

A. *International labour standards:*

- Targeted promotion of the ratification and effective implementation in national law and practice of international labour standards, with special attention to the fundamental principles and rights at work and the governance Conventions.
- Issues related to decent work in supply chains are considered within the Organization's efforts to keep the body of international labour standards up-to-date, both in the work of the Standards Review Mechanism Tripartite Working Group and in future standard-setting exercises.
- Information from the work of the supervisory mechanisms with relevance to supply chains is integrated in ILO technical and research work; and in turn their outcomes are brought to the attention of the supervisory mechanisms.

- Further consideration of options for initiatives to complement the body of international labour standards that take into account national circumstances, whether through new normative measures, the revision of existing measures, or supplementary guidelines and tools.
- 168.** The Government spokesperson made the following amendments to the text, to include elements his group felt were missing. In bullet 1, add “those underpinning” after “special attention to”; in bullet 2, replace “issues related to” with “Where appropriate, take into account”; add “relevant and” after “international labour standards”; after “up-to-date”, add “robust and responsive to the constantly changing patterns of the world of work”; and add “, combined with a well-functioning standards supervisory mechanism” after “exercises”.
- 169.** The following three additional bullet points should be inserted between bullet point 3 and 4, to become bullet points 4, 5 and 6, making the current bullet point 4 bullet point 7:
- “Mapping and analysis of legislative initiatives and business practices addressing decent work deficits in supply chains, subsequently enabling meetings to exchange and assess best practice and make use of multilateral cooperation”.
 - “Assess the impact of the paradigm shift of increasing legislation to protect human rights along global supply and value chains on addressing normative gaps in international labour standards”.
 - “Assess options and added value of potential new normative measures, including possible standard setting, to strengthen corporate respect for human and labour rights along global supply chains”.
- 170.** In the final bullet point (original bullet point 4, now 7 in the new proposed list), add the following phrase at the beginning of the point: “Establish a systematic and holistic approach to corporate due diligence”, and delete “further consideration of options for” before “initiatives to complement”.
- 171.** The Worker Vice-Chairperson reiterated that the content of the building blocks might be influenced by what was written in the preamble. There was a need to include a reference to the smart mix of normative and non-normative measures. The notion of “One-ILO” was too limitative in the current context. The introductory paragraph to Part 3 should be amended as follows: replace “One-ILO” with “and comprehensive ILO” after “holistic”; add “normative and non-normative measures” after “a smart mix of” and delete “responses”; after “to optimize”, replace “outcomes” with “impact”; before “its tripartite structure” replace “taking advantage of” with “building on”. The term “supervisory system” was more commonly employed than “supervisory mechanisms”.
- 172.** The Workers’ group then suggested the following amendments to the original Office draft, before amendment by the Government group. In bullet point 1, after “standards”, add “relevant to decent work in supply chains”. In bullet point 2, add “global” before “supply chains”; include after “up-to-date”, the phrase “, fit for purpose and responsive to new challenges in the world of work, including accountability and access to remedy, cross-border collective bargaining and social dialogue, cross-border procurement and cross-border labour inspection and labour law enforcement, as well as social auditing,”; add after “standard-setting exercises,” “which should take into account the cross-border application of international labour standards”. In bullet point 4, delete the opening words “Further consideration of options for”; replace “national circumstances whether through new” with “the changing world of work and the specific challenges of cross-border supply chains and”.

- 173.** With regard to the amendments submitted by the Government group, the Workers required clarification of the words “legislative initiatives” in new bullet point 4. Did that term refer to national legislative initiatives or any legislative initiative? The term “regulatory initiative”, which would for example cover EU regulations might provide more clarity. The text otherwise posed no problem to the group as long as “legislative initiatives” meant any initiative at any level. The group also needed clarification of what was meant by “establishing a systematic and holistic approach to corporate due diligence”. As drafted, the concept was broad, and it might be advisable to add the words “human rights” before “due diligence”.
- 174.** The Workers’ group wished to amend the title of Part 3 to read “means of action to ensure decent work in supply chains”. While the group was referring to “supply chains”, which was the term decided on by the Governing Body, it expected that the preamble would make clear that it was global, cross-border supply chains that were of specific concern, and that the Working Group was building on the basis of the 2016 Conference conclusions, which specifically addressed “global” supply chains.
- 175.** The Employer Vice-Chairperson agreed with the proposed change to the title of Part 3. In the introductory paragraph to Part 3, her group could not support the deletion of “One-ILO”, which was a well-established concept and term. Neither was the addition of “normative and non-normative” acceptable. The language should follow the UN Guiding Principles and retain “should consider a smart mix of measures”. The group could agree to change “outcome” to “impact”. It wished to see the wording, added after the word “chains”, “and clearly linked to the ILO core means of action,” and supported the change from “taking advantage of” to “building on”.
- 176.** Moving down to the first bullet point, the words “up-to-date” should be added before “international”. As the ILO body of Conventions, Recommendations and Protocols covered practically every work-related issue, and as the gap analysis also found that there were no gaps as they related to supply chains, the Workers’ proposed addition “relevant to decent work in supply chains” was acceptable. Likewise, the Government suggestion to add “where appropriate take into account” could be supported. The addition of “global” before “supply chains” however was not acceptable as the discussion was about “supply chains”, a term which, as the gap analysis said, covered both global and domestic supply chains. The group could accept the Government proposal to include words “relevant and” before “up-to-date”, although the full body of norms was relevant. The Employers could not accept the additional sentence “fit for purpose and responsive to new challenges in the world of work, including accountability and access to remedy, cross-border collective bargaining and social dialogue, cross-border procurement and cross-border labour inspection and labour law enforcement, as well as social auditing” as proposed by the Workers. But they could agree to the words “robust and responsive to the constantly changing patterns of the world of work” suggested by the Government group. The wording “should take into account the cross-border application of international labour standards” proposed by the Workers was not acceptable, but the Government proposal to include “combined with a well-functioning standard supervisory mechanism” was. After “relevance to supply chains” the word “integrated should be replaced by “considered”.
- 177.** The Government spokesperson explained that in his group’s three additional bullet points, the first bullet point, beginning “Mapping and analysis” was new text; the point beginning “Assess its impact” had been moved from lower down in the Office draft; while the bullets beginning “Assess options” and “Establish a systematic and holistic approach” were both new contributions by the group.
- 178.** The Employer Vice-Chairperson said her group could support the bullet beginning “Mapping and analysis”, but it would be inconsistent to add “global” in front of “supply chains”. Her group did

not support the Governments' proposed bullet point beginning "Assess the impact". The bullet point beginning "Assess options" was unnecessary as it duplicated text elsewhere. Likewise, the bullet point reading "Establish a systematic and holistic approach to corporate due diligence" was not required, as the text already mentioned alignment with the UN Guiding Principles. The Employers disagreed with deletion of "Further considerations of options for" and did not support the addition: "the changing world of work and the specific challenges of cross-border supply chains and".

179. The Worker Vice-Chairperson pointed out that the UN Guiding Principles stated that "States should not assume that businesses invariably prefer, or benefit from, state inaction, and they should consider a smart mix of measures – national and international, mandatory and voluntary – to foster business respect for human rights." The ILO should not fall short of the consensus around the UN Guiding Principles, with their wording "mandatory and voluntary" measures. She requested clarification from the Office regarding whether the gap analysis referred to gaps related to the cross-border nature of supply chains. Her group supported inclusion in the text, here or elsewhere, of accountability and access to remedy, cross-border and collective bargaining and social dialogue. The word "corporate" in front of "human rights due diligence" should be deleted.
180. The Employer Vice-Chairperson proposed adding the words "or non-normative" between "new normative" and "measures" in the bullet point beginning "Assess options". The UN Guiding Principles stated that "The failure to enforce existing laws that directly or indirectly regulate business respect for human rights is often a significant legal gap in state practice." The sentence would then be aligned with the challenges identified in the gap analysis.
181. The Worker Vice-Chairperson replied that the entire text of the UN Guiding Principles was relevant, and the entire paragraph, of which the Employers had only quoted part, could be included. The UN Guiding Principles made clear reference to a "a smart mix of measures, national and international, mandatory and voluntary", to foster businesses' respect for human rights.
182. The Government representative of Germany clarified the questions raised by the workers' group regarding the bullet point reading "Establish a systematic and holistic approach to corporate due diligence". Taking the UN Guiding Principles as the authoritative framework, human rights due diligence should be an essential part in realizing decent work in global supply chains. The aim was to reflect the broad spectrum of ILO normative and non-normative measures. It would be important to assess whether due diligence was comprehensively and systematically addressed in current ILO activities, bearing in mind that human rights due diligence existed independently of state obligations and state capacity.
183. The Government representative of Sweden said, with regard to the bullet point beginning "Mapping and analysis", that a paradigm shift was in process, where more and more legislative proposals on due diligence were emerging, together with other measures to ensure decent work in global supply chains. Normative measures could be taken by the ILO – including standard-setting – to rectify the gaps that the report mentioned. The ILO should map and analyse the legislative initiatives already taken as well as those in process. Responding to a question from the Workers' group, the speaker clarified that the words "legislative initiatives" were intended to include regional legislation, such as EU directives.
184. The Government spokesperson proposed using the word "regulatory" in place of "legislative".
185. The Worker Vice-Chairperson proposed aligning the introductory paragraph of Part 3 with the UN Guiding Principles, by referring to "a smart mix of national and international, mandatory and voluntary measures".

186. The Employer Vice-Chairperson propose adding an additional sentence at the end of the introductory paragraph after the words “ILO means of action”, to read “The failure to enforce existing laws that directly and indirectly regulate business respect for human rights is often a significant legal gap in state practice:”
187. The secretariat, responding to a query from the Government group, clarified the concept of “One-ILO”, which meant: “to advocate and realize the commitment to “deliver as One-ILO” with respect to headquarters/regions interaction, establishing productive and coherent relationships between the headquarters activities and programmes implemented in the regions.” The ILO also used “One ILO” to refer to policy coordination and support.
188. The Government spokesperson said his group supported the extended title of Part 3 as proposed by the Workers, as well as the deletion of the word “One” in “One-ILO”. The support should be provided by the whole ILO, not by a part of it limited by a concept. The group also approved the inclusion of “comprehensive” in the wording “A fully coordinated, ambitious, holistic and comprehensive ILO strategy”. Governments supported using UN Guiding Principles language and hence the wording “national and international, mandatory and voluntary”. Those words rendered “normative and non-normative”, placed just before them, redundant.
189. The Government representative of Germany asked the Employers’ group to clarify the meaning of “clearly linked” and “the ILO core means of action”, to make sure that the proposed wording would not impose undue restrictions.
190. The Employer Vice-Chairperson explained that the proposed wording was taken from the gap analysis. Its intention was to link all efforts to eradicate decent work deficits in supply chains to activities carried out across all departments, in particular the core work done by core departments, including FUNDAMENTALS child labour and forced labour. The term “One-ILO” stressed the holistic nature of the whole Organization, connecting headquarters to the field. That was why the Employers supported the “One-ILO” approach.
191. The Government representative of Sweden requested the Employers’ group or the Office to explain the sense of “ILO core means of action”.
192. The Employer Vice-Chairperson referred to page 41 of the gap analysis: “many ILO interventions [...] take place within supply chains, but as part of ILO’s core means of action, rather than specific supply chain interventions”.
193. The representative of the Director-General explained that the “core means of action”, in the gap analysis referred to the international labour standards, research and knowledge and development cooperation. The title of Part 3 was intended to embrace the full range of those activities.
194. The Employer Vice-Chairperson also referred to page 46 of the gap analysis: “there are insufficient linkages between “activities that address national-level capacities to strengthen compliance with international labour standards”, and “activities directly targeting supply chain actors”. From the Employers’ perspective, with the goal of advancing decent work everywhere, the Office highlighted the importance of ensuring that the activities in this policy area were connected to the core of ILO work, in other words, the ILO core means of action.
195. The Worker Vice-Chairperson considered the inclusion of this term confusing. It might give the impression that the ILO could not also undertake specific supply chain interventions. The context of the sentences quoted by the Employers’ group on page 41 of the gap analysis was utterly different from the circumstance of the current discussion. The term “the ILO core means of action”

could be included elsewhere in the building blocks in a broader context. There was no added value in including it in the introductory paragraph to Part 3.

196. The Government representative of Sweden proposed adding a new last sentence, after “legal gap in state practice”, also drawing on the UN Guiding Principles: “It is important for States, to consider whether, such laws [are] all currently being enforced effectively, and if not, why this is the case, and what measures may reasonably correct the situation”. The assessment of the enforcement of legislation could provide a possible way forward and means of correcting the situation.
197. The Government representative of Bangladesh stated that this part of the building blocks should remain positive in spirit and not point to negative aspects. Challenges were addressed elsewhere. He did not support the sentence proposed by Sweden and proposed deleting the text from “The failure to enforce existing laws” down to the end of the paragraph.
198. The Government representative of Senegal supported the position of the Government of Bangladesh. Non-enforcement of laws, including excellent laws, was not a problem of legal gaps, but of enforcement. It might arise from lack of political will, or difficult contexts.
199. The Government representative of the Philippines agreed with Bangladesh that the final two sentences, from “The failure to enforce existing laws” should be deleted. The introductory paragraph was intended to describe the substantive content beneath it, not introduce critical elements.
200. The Employer Vice-Chairperson supported the text proposed by Sweden. The gap analysis mentioned the need for enforcement at the national level to address normative gaps.
201. The Worker Vice-Chairperson noted that the Working Group was in agreement on the title of Part 3. She supported the Government group amendment to replace “One-ILO” by “comprehensive”, as “One-ILO” was linked too closely to individual programmes such as the Better Work Programme. The wording “should consider” a smart mix, rather than “is a smart mix” was less good, but since it followed the original UN Guiding Principles language, could be acceptable to the Workers. “Normative and non-normative” could be deleted if “national and international, mandatory and voluntary” were accepted. The term “measures” was also used in the UN Guiding Principles. She was not in favour of “linked” to the ILO core means of action. She understood the importance of including the last two sentences for the Employers’ Group, but also understood the argument that this should not be mentioned in this part of the text. She suggested moving those two sentences, possibly to the preamble, which should make reference to decent work deficits and the transnational context.
202. The Government representative of Germany, speaking on behalf of the EU and its Member States, supported deletion of the “ILO core means of action”, which seemed unnecessary and confusing. He agreed to deleting the last two sentences of the introductory paragraph and was open to moving them to another part of the text.
203. The Government representatives of Bangladesh and Morocco supported the Worker Vice-Chairperson’s proposal to move the last two sentences to the preamble.
204. The Government representative of the Philippines could support moving the last two sentences to the preamble, provided the wording of the first sentence was amended to read “The failure to domestically and transnationally enforce existing laws”.
205. The Employer Vice-Chairperson said that the words “should consider” were a direct quote from the UN Guiding Principles and should not be struck out. If they were deleted, the words “national and international, mandatory and voluntary” should also go, as there would be no use in being consistent with the UN Guiding Principles in one part of the sentence and inconsistent with them

in another part of the same sentence. The addition of “domestically and transnationally” as proposed by the Government representative of the Philippines, would change a sentence quoted directly from the UN Guiding Principles; it was therefore not acceptable.

206. The Government representative of the United States said that asking a strategy to “consider” something was tricky, given that strategies did not have the faculty of considering. He supported retaining the word “is” but was open to creative solutions. He did not support the words “clearly linked to the ILO core means of action” and agreed with placing the final two sentences proposed for inclusion in the introductory paragraph elsewhere.
207. The Worker Vice-Chairperson agreed with the Government representative of the United States that a strategy could not “consider” linguistically speaking. She asked whether the Employers’ Group was willing to delete “clearly linked to the ILO core means of action” from this paragraph and placing it more logically elsewhere.
208. The Employer Vice-Chairperson pointed out that the UN Guiding Principles did not only apply to States, but also to businesses and trade unions. She did not agree to moving the last two sentences to another place, as this paragraph addressed action, which included taking action on deficits.
209. The Government representative of Sweden, speaking on behalf of the EU and its Member States, supported the Workers’ group proposal to retain “is” instead of “should consider”.
210. The Worker Vice-Chairperson fully agreed with her Employer counterpart that the UN Guiding Principles were applicable to all stakeholders but pointed out that the wording “should consider” did not work for the ILO and the development of a strategy. In the UN Guiding Principles it was directed at States, which could pass laws. Moreover, the ILO should not content itself with simply copying and pasting UN Guiding Principles language. The Workers could understand the importance to the Employers of including the two last sentences of the paragraph, but they were not correctly placed here. She called on the Employers’ Group to agree to putting them between brackets for the moment and returning to them later to find an appropriate place for their inclusion.
211. The Chairperson asked the Employers whether they could accept alternatives to “should consider”.
212. The Employer Vice-Chairperson was willing to listen to ideas but had not heard a compelling suggestion yet.
213. The Government representative of Canada agreed with the Workers’ group, the EU, and the United States regarding the word “is”. While the UN Guiding Principles were an authoritative voice, the specific characteristics of the ILO had to be considered here, and “is” would better reflect the intentions of the Working Group.
214. The Worker Vice-Chairperson proposed “a strategy with a smart mix”.
215. The Working Group agreed to postpone discussion on the last two sentences of the introductory paragraph to Part 3.
216. The Employer Vice-Chairperson said that the Employers’ group was not comfortable with suggesting amendments to, or elements for inclusion in, an as-yet non-existent preamble. The preamble was an important part of the document, and due consideration internally in the group would be needed before agreeing to a possible reframing or repositioning of text.
217. The Worker Vice-Chairperson said that the last two sentences could be placed in another part of the document, but not necessarily in the preamble. The Workers were committed to including the

issue covered by the sentences in the document, as it concerned a problem or gap that needed to be tackled. While acknowledging that it was important for the Employers' group to stick to the language of the UN Guiding Principles and admitting the relevance of the OECD Guidelines and the MNE Declaration, the purpose of the ongoing discussion was to produce the building blocks of the ILO's own strategy on achieving decent work in supply chains. She pointed out that the word "with", between "strategy" and "that should consider" was grammatically incorrect and should be struck out and suggested "should develop" or "should include" to replace "should consider".

- 218.** The Chairperson asked the Working Group to turn its attention to two outstanding issues in the first two lines of the paragraph. Firstly, whether or how to refer to a "holistic and comprehensive ILO strategy", and secondly, how to link that strategy to the "smart mix of measures".
- 219.** The Employer Vice-Chairperson agreed to withdraw her group's objection to the deletion of "One" in "One-ILO" in the spirit of consensus-building and despite it being a point of critical interest to the Employers. The Workers' formulation "a comprehensive ILO strategy should be retained."
- 220.** The Government representative of the United States proposed a compromise solution with regard to the "should consider" wording and suggested "should consider and include" as a possible solution.
- 221.** The Worker Vice Chairperson felt that that proposal would confuse the main message. Both "should include" (as proposed by the Workers group) and "is" (as in the original language) were clear. "Should consider", proposed by the Employers' group, was indeed used in the UN Guiding Principles commentary, but the context was different. In the UN Guiding Principles it was calling on States to consider. Here, it was asking a strategy to consider, where the purpose was to give a clear message to the Office as to what should be included in the strategy.
- 222.** The Chairperson noted that the Working Group agreed with the wording "to optimize the impact" "building on its tripartite structure". She invited participants to turn their attention to the first bullet point of Part 3.

International labour standards

- 223.** The Worker Vice-Chairperson said her group could not support the Employers amendment in paragraph 3.A.1 to add "up-to-date" before "international labour standards". This was a recurrent proposal from Employers when discussing the promotion of international labour standards and it would always encounter firm opposition from the Workers. The ILO was mandated to promote all instruments except those which had been explicitly excluded from the body of international labour standards by an International Labour Conference decision. Certain standards had not undergone a classification exercise and until they had, they were to be considered up-to-date. Her group could never accept wording that compromised that message.
- 224.** The Employer Vice-Chairperson read Section 4, Point A, of the ILO Centenary Declaration, as follows:

The setting, promotion, ratification and supervision of international labour standards is of fundamental importance to the ILO. This requires the Organization to have and promote a clear, robust, up-to-date body of international labour standards and to further enhance transparency.

That use of language referring to an "up-to-date" body of standards should be reflected here.

- 225.** The Worker Vice-Chairperson said that the Workers fully supported the language of the Centenary Declaration, noting that the same language occurred in the mandate of the SRM. But in those two contexts, the meaning was that the ILO promoted an up-to-date body of standards: it did not

exonerate the ILO from actively promoting all standards that remained in force. Governments, like the Workers, had never supported such language, and perhaps the Office, or the governments present, could elucidate why that was the case.

- 226.** The Government representative of Canada, while understanding the Employers' reasoning, said that no definition existed of "up-to-date" standards. The SRM was mandated to review standards and decide on possible abrogation or derogations. That was a lengthy process, culminating in abrogation by the International Labour Conference, and until that moment a standard could not be declared to be out of date. Canada could not support the proposal from the Employers' group.
- 227.** The following Governments supported the statement made by Canada: Argentina, Bangladesh, Cameroon, Germany, the Philippines, Senegal and Sweden, speaking on behalf of EU Member States.
- 228.** The Worker Vice-Chairperson was happy to hear general understanding from governments and hoped the Employers' group would also understand that there was a difference between "promoting an up-to-date body of standards" and what they proposed to include in the text. She reiterated that all ILS that had not been given the status of being "outdated" were to be considered applicable and hence to be promoted by the ILO.
- 229.** The Employer Vice-Chairperson pointed out that her group had already conceded to the Workers' proposed inclusion of "relevant to decent work in supply chains". However, in the spirit of compromise Her group would withdraw its amendment "up-to-date".
- 230.** The Working Group adopted paragraph 3.A.1 of the building blocks, as follows:
- Targeted promotion of the ratification and effective implementation in national law and practice of international labour standards relevant to decent work in supply chains, with special attention to those Conventions underpinning fundamental principles and rights at work and the governance Conventions.
- 231.** The Worker Vice-Chairperson said that the issues encapsulated in the wording "including accountability and access to remedy, cross-border collective bargaining and social dialogue, cross-border procurement and cross-border labour inspection and labour law enforcement, as well as social auditing" were important to her group, and while they could be deleted from paragraph 3.A.2, they must be included in the document. The Workers did not support the words "Where appropriate take into account", but could agree to their inclusion, on the understanding that the preamble should address the cross-border nature of many supply chains. The qualifier "global" could be deleted. The Workers supported keeping the body of international labour standards relevant, up-to-date, robust, well-functioning. However, it would be advisable to retain language that was consistently employed, such as "robust and up-to-date labour standards". The phrase "fit for purpose and responsive to new challenges in the world of work" was important with regard to decent work challenges in supply chains. The wording from "including accountability" down to "social auditing" could be deleted here, on the understanding that those issues would be addressed somewhere else in the text. The mentioning of "robust and responsive to the constantly changing patterns of the world of work" was repetitive of the "fit for purpose" wording. The additional phrase "combined with a well-functioning standard supervisory" did not make sense in its current position.
- 232.** The Employer Vice-Chairperson noted agreement in respect of "Where appropriate take into account" and regarding the deletion of "global". Her group could support the wording "a clear, robust, and up-to-date body of international labour standards" proposed by the Workers; the inclusion of "relevant and"; as well as "fit for purpose and responsive to new challenges in the world of work". The Employers could not accept the wording "cross-border application of

international labour standards” and wished to retain “combined with a well-functioning standard supervisory [system]”.

- 233.** The Government representative of Sweden, speaking on behalf of the EU Member States, supported the Workers’ proposals to avoid repetition in the paragraph. He asked for clarification from the Workers as to the meaning of “cross-border application of international labour standards”.
- 234.** The Worker Vice-Chairperson said that it was important to address the increasingly cross-border nature of business and globalization and the challenges it posed to existing international labour standards and to future standard setting exercises. However, the wording “should take into account the cross-border application of international labour standards” could be deleted here in the interest of moving forward, since amended wording regarding “the changing world of work and the specific challenges of cross-border supply chains and” had been included later in the text. Historically, although there had been developments, the ILO body of standards had always focused on national employment and employment relationships. That should be reflected in the building blocks. The original language “both in the work of the Standards Review Mechanism Tripartite Working Group and in future standards-setting exercises” should remain.
- 235.** The Government representative of China supported the deletion of “global” and supported “a clear, robust, and up-to-date”, as well as the wording “fit for purpose and responsive to new challenges in the world of work”. The Workers’ withdrawal of their wording from “including” down to “social auditing” was welcome since it would feature later in the text. Indeed, social auditing was taken up in Part 3.5: Policy coherence, but amendments were needed to emphasize the importance of transparency in the social auditing process. The conclusions of the Expert Meeting on Cross-border Social Dialogue could perhaps provide guidance regarding the “cross-border application of international labour standards”. However, for the Government of his country, no measures, either normative or non-normative, on cross border labour inspection and law enforcement could be agreed, as they risked interfering with the sovereignty of the state.
- 236.** The Government representative of Cameroon said that if international labour standards were truly international, they already crossed borders and covered decent work, as long as they were ratified by several States. International labour Conventions could not be national.
- 237.** The Government spokesperson suggested that the language “fit for purpose and responsive to new challenges in the world of work” and “clear, robust, and up-to-date” could be merged. The gap analysis and the Centenary Declaration both referred to “domestic and global supply chains”, and the term should be retained here. The gap analysis on this point read as follows: “In practice, “global and domestic supply chains” are both interwoven and overlapping in most countries,” hence “supply chains” is used broadly and comprises both.”
- 238.** The Chairperson noted that both the Employers and Workers’ Vice-Chairpersons had agreed to delete “global” in this paragraph.
- 239.** The Worker Vice-Chairperson said that her group could keep working on the basis of the title of the meeting “decent work in supply chains” if the preamble contained a clear definition of supply chains, including global supply chains. The word “relevant” should be replaced by “a clear, robust and up-to-date body of standards”.
- 240.** The secretariat clarified that “clean, robust and up-to-date” was the standard language used by the ILO. The notion of being “relevant” was already captured by the wording “fit for purpose and responsive to new challenges”.

- 241.** The Government representative of Bangladesh supported China's proposal regarding cross-border labour inspection.
- 242.** The Government spokesperson agreed to the proposed changes.
- 243.** The Employer Vice-Chairperson noted that "standard supervisory system" should be pluralized as "standards supervisory system".
- 244.** The Worker Vice-Chairperson suggested deleting "standards" and requested the secretariat's advice.
- 245.** The secretariat confirmed that habitually, the term "the ILO supervisory system" was used, as was "an authoritative supervisory system". The Centenary Declaration also referred to "authoritative and effective supervision".
- 246.** The Government representative of Canada supported the addition of "authoritative". Indeed, an authoritative and robust supervisory system would be essential for the proper implementation of labour standards. In comparison with other UN agencies, the ILO's supervisory system could be considered among the most, if not the most robust.
- 247.** The Government representative of Sweden, on behalf of the EU and its Member States, and the Employer Vice-Chairperson agreed with the use of "authoritative and effective" and the removal of "well-functioning standards".
- 248.** The Working Group adopted paragraph 3.A.2 of the building blocks as follows:
- Where appropriate, take into account decent work in supply chains within the Organization's efforts to keep a clear, robust and up-to-date body of international labour standards, fit for purpose and responsive to new challenges in the world of work, both in the Standards Review Mechanism Tripartite Working Group and in future standard-setting exercises, combined with an authoritative and effective supervisory system;
- 249.** The Worker Vice-Chairperson preferred the word "considered" to the proposed amendment to paragraph 3.A.3 by the Employers, "integrated" in ILO technical and research work.
- 250.** The Government representative of Senegal, supported by the Government representatives of Bangladesh, China, Morocco, and Sweden, speaking of behalf of the EU and its Member States, suggested using "taken into account" instead of "considered".
- 251.** The Employer Vice-Chairperson explained that the ILO's work technical cooperation work at national levels required consultation and input from national tripartite constituents. Her group could support either "considered" or "taken into account".
- 252.** The Worker Vice-Chairperson supported the proposal by Senegal of "taken into account".
- 253.** The Working Group adopted paragraph 3.A.3 of the building blocks as follows:
- Information from the work of the supervisory mechanisms with relevance to supply chains is taken into account in ILO technical and research work, and in turn their outcomes are brought to the attention of the supervisory mechanisms;
- 254.** The Employer Vice-Chairperson recalled that there was an agreement to change the term "legislative initiatives" to "regulatory initiatives" in paragraph 3.A.4.
- 255.** The Government representative of Argentina suggested replacing "initiatives" with the word "instruments" to stay consistent with the usage employed elsewhere.
- 256.** The Worker Vice-Chairperson understood that outside Europe the term "regulatory" was better. Her group could accept that change but did not support replacing "initiatives" with "instruments" which would narrow the scope of the paragraph considerably.

- 257.** The Employer Vice-Chairperson agreed with changing “legislative” to “regulatory” but also asked for the words “and business practices” to be deleted. That phrase was not appropriate in this position as it did not relate to decent work deficits. The group would be open to discussing its inclusion elsewhere.
- 258.** The Worker Vice-Chairperson suggested that the paragraph should begin “Mapping and analysis of regulatory and non-regulatory initiatives addressing decent work deficits. The word “enabling” should be replaced by “facilitating”.
- 259.** The Employer Vice-Chairperson supported those suggestions.
- 260.** The Government representative of the Philippines agreed with the amendments proposed by the Workers’ group but suggested rephrasing the last part of the sentence as “subsequently facilitating multilateral cooperation to exchange and assess best practices.”
- 261.** The Government representative of Sweden, speaking on behalf of the EU Member States, agreed with the changes proposed by the Workers’ group. He disagreed with the Government representative of the Philippines’ suggestion. The word “meetings” could include multilateral cooperation.
- 262.** The Worker Vice-Chairperson clarified that there was agreement to keeping a reference to “multilateral cooperation” at the end of the sentence, but that the proposal was to replace the word “meetings” with “multilateral cooperation”. In general, “meetings” went beyond multilateral cooperation, thus it should remain here.
- 263.** The Government representative of the Philippines and the Employer Vice-Chairperson both agreed to placing the reference to multilateral cooperation at the end of the phrase.
- 264.** The Government representative of Cameroon said that bilateral cooperation as well as multilateral cooperation should feature in the building blocks. If multilateral agreements were signed and implemented, it would be ideal, but often they were not enforced. Cameroon signed cooperation agreements with certain states, such as France. Such bilateral agreements provided protection to workers – particularly to migrant workers, ensuring the portability of their benefits. The two dimensions, bilateral and multilateral, were very important.
- 265.** The Worker Vice-Chairperson proposed the addition of “and make use of bilateral and multilateral cooperation” after the words “assess best practices”, to address the concern of the Government representative of Cameroon.
- 266.** The Government representative of Argentina stated that multilateral and multinational collective agreements existed in Argentina, including with respect to social security, and confirmed that they worked effectively.
- 267.** The Employer Vice-Chairperson questioned how the ILO could address bilateral cooperation but did not object to the wording.
- 268.** The Working Group adopted paragraph 3.4 of the building blocks as follows:
- Mapping and analysis of regulatory and non-regulatory initiatives addressing decent work deficits in supply chains, subsequently facilitating meetings to exchange and assess best practices and make use of bilateral and multilateral cooperation.
- 269.** The Government spokesperson reiterated that according to his group’s own understanding and supported by the gap analysis, current ILO standards did not adequately address decent work deficits in the supply chains. The group also recognized that there was a trend toward more mandatory due diligence in an increasing number of countries and regions. Hence, the group had indicated that the building blocks had to include both normative and non-normative measures,

taking account of diverse national contexts, and consideration of ways to achieve policy coherence, a level playing field, supply chain transparency and access to remedy. The group's three proposed additional paragraphs were founded on governments' shared position on those points, which had all been made during the general discussion. He proposed two further amendments. In paragraph 3.A.5: add "in particular labour rights" after "protect human rights,;" and in paragraph 3.A.6, delete "human rights" to read "respect to labour rights".

- 270.** Regarding proposed paragraph 3.A.5, the group had started from the recognition that there were other initiatives outside the ILO on the topics under discussion such as due diligence. For that reason, and to enhance policy coherence, the group considered that an assessment should be made of the paradigm shift towards legislating to protect human rights along global supply and value chains and addressing normative gaps in international labour standards. To achieve policy coherence, it was critical to have a better appreciation and understanding of what was happening in other multilateral institutions. The ILO's response to addressing the gaps in its body of international labour standards would need to be informed by evidence received from other institutions.
- 271.** The idea behind proposed paragraph 3.A.6 was to identify and assess what options existed, and their added value, in terms of normative and non-normative measures, including possible standard setting. The group acknowledged that not all options would lead to a standard-setting process. Paragraph 3.A.7 appeared self-explanatory, and it was unclear why the Employers were unable to support it.
- 272.** The Worker Vice-Chairperson repeated her group's support for the content of the additional paragraphs proposed by the Government group. It was important that the ILO should take a leadership role in this matter. For that to happen, account had to be taken of the paradigm shift, and of growing support in many places for normative action. For the ILO to develop a strategy on the subject, that broader context must be taken into consideration, assessed, and learned from. When discussing the matter with employer organizations at national level in countries where governments were taking national legislative action on the subject, employers often indicated that they preferred regional or supranational legislation to national legislation, to provide coherence and a consistent approach, a level playing field with other companies in the same region, and legal certainty. In some cases, employers called for action at the higher, international, and global level. It was also true that all internationally adopted and agreed multilateral guidelines on the subject recognized that ILO standards provided the ground required for the level playing field, legal certainty, consistency and coherence. There was a clear business case. Thus, her group supported paragraphs 3.A.5, 3.A.6 and 3.A.7 as they stood, though she could make the language stronger still. Her group wondered whether, in paragraph 3.A.7, it would not be beneficial to add direct references to legal certainty, a level playing field and coherence, but wished first to hear from the Employers' group.
- 273.** The Government spokesperson suggested a further amendment to paragraph 3.A.7, adding "as reflected in the MNE Declaration", at the end of the sentence.
- 274.** The Employer Vice-Chairperson, noted the Government arguments in support of the proposed paragraphs and the positions expressed earlier calling for policy coherence and evidence base, both issues of importance to Employers. With regard to the evidence base action, she noted that the gap analysis provided clear evidence that the ILO body of standards was current and fit for purpose, and that any gaps were related to ratification and implementation of standards at national level. Policy coherence was certainly among the Employers' objectives, and for that reason the group had consistently called for references to important internationally agreed instruments such as the UN Guiding Principles and the MNE Declaration.

- 275.** The Employers had consistently called for policy coherence, evidence base and indeed had offered a strong position based on the evidence provided by the gap analysis that the ILO normative body was fit for purpose. However, in a spirit of compromise and to move forward, they would change their stance from opposition to proposed paragraph 3.A.5, and wished to put forward an amended text to replace the paragraph as follows:

Assess the impact and effectiveness of the legislation to protect human rights in supply chains.

- 276.** In paragraph 3.A.6, her group wished to add the word “possible” before “options”; delete the word “and” before added-value; and insert “and unintended consequences” after “added-value”. The group also wished to add, after “normative measures”, the words “and non-normative measures to promote human rights in supply chains”, with the deletion of the rest of the phrase from “including” down to “global supply chains”. Paragraphs 3.A.6 and 3.A.8 overlapped and only one of the two should remain. Paragraph 3.A.7 was not necessary, because the UN Guiding Principles already provided a systematic and holistic approach to internationally recognized human rights due diligence. The OECD had already issued overarching, as well as sector-specific, guidance on implementing due diligence.
- 277.** The Government representative of Sweden, speaking in his national capacity, said that before the EU Directive on corporate sustainability due diligence was proposed, trade unions and business organizations in Sweden were both in support of having an EU Directive as it would create a level playing field at the EU level. Speaking on behalf of the EU and its Member States, he said that following paragraph 3.A.5, which called for assessment of the impact of legislation, paragraph 3.A.6 logically moved to action, based on the evidence garnered under 3.A.5. The two paragraphs were complementary, and paragraph 3.A.6 should therefore remain: normative measures could not be excluded.
- 278.** The Government representative of Germany noted that the trend towards regulatory due diligence measures in respect of global supply chains was a reality. The question was therefore to determine the position the ILO was to occupy within the new regulatory dynamic. Should it remain inactive, or take a leading role? At a minimum, should it assess the trend to see if its own normative body was fit for purpose? As issues such as a level playing field, legal certainty, and fair competition were of critical importance to employers, it was hard to understand the Employers’ position. Could the group further explain their opposition to assessing the trend in global supply chains on human rights due diligence?
- 279.** The Worker Vice-Chairperson asked the secretariat to clarify whether the gap analysis denied the presence of normative gaps in supply chains, as the Employers appeared to understand. It would therefore be useful to have the secretariat’s view on record. Workers and Governments had both understood that the analysis had revealed gaps in standards relating to supply chains.
- 280.** Regarding the text proposed by the Employers for paragraph 3.A.5, the Workers could agree to the word “effectiveness”, since there was never any harm in checking if legislation worked. The rest of the text was empty words. The preamble should make it clear that while there were both domestic and global supply chains, the problems that needed to be addressed arose from the cross-border dimension of the chains. It was difficult to apply international due diligence frameworks to national situations. Possibly the term “cross-border supply chains” might be acceptable to the Employers’ group, though the 2016 Conference conclusions referred to “global supply chains”. It was unclear what the Employers expected from adding the term “unintended consequences” in paragraph 3.A.5. Paragraphs 3.A.6 and 3.A.8 had two clearly different messages. Paragraph 3.A.6 was on action to be taken on the basis of the assessment stipulated in paragraph 3.A.5, while paragraph 3.A.8 aimed at reinforcing corporate respect for human and labour rights. Both paragraphs were useful. Paragraph 3.A.7 was likewise critical: the word

“establish” could be replaced by “promote”. The Workers supported the reference to the UN Guiding Principles and the OECD Guidelines. To clarify the interest of business, it would be useful to add “to provide for a level playing field, legal certainty and policy coherence”.

- 281.** The representative of the Director-General said that the gap analysis had found that the ILO normative corpus addressed most of the decent work deficits associated with supply chains, with the caveat that it was only so when Conventions and Protocols were ratified, fully implemented, and applied to all relevant segments of the workforce. Supply chains connected a range of enterprises and workers, within and across borders. International labour standards, and fundamental principles and rights at work in particular, applied to workers regardless of employment status and did not typically seek to regulate responsible business conduct, either within one jurisdiction or between jurisdictions.
- 282.** The Director of the ILO International Labour Standards Department (NORMES) said that the gap analysis evaluated the thematic scope of international labour standards, concluding that they addressed most of the decent work deficits found in supply chains. The gap analysis then addressed roles and responsibilities in respect of labour rights in supply chains, indirect employment relationships and multiple/third party responsibility, due diligence requirements and the multijurisdictional aspect. For labour standards to deliver, they had to be fully ratified and fully implemented, which was still far from the case. Institutional support and capacity building were certainly required. However, situations where there were multiple employers and different types of contractual arrangements called for very specific measures, and few standards addressed those two challenges. Finally, the cross-border nature of some supply chains brought specific governance-related challenges, affecting implementation, enforcement, access to justice and remedies. Specific measures should be foreseen to ensure that workers enjoyed decent work when a cross border dimension existed. The only ILO instrument that had a fully developed governance response to address these types of challenges was the Protocol of 2014 to the Forced Labour Convention, 1930. There was thus indeed a normative gap.
- 283.** The Employer Vice-Chairperson said that if fully ratified and implemented, the existing international labour standards would be able to reduce decent work deficits. This point had been stressed by the Employers’ group. Support to tripartite constituents at the national level was needed to encourage ratification and enforcement of Conventions. Uzbekistan provided a model example in its successful efforts to eradicate forced labour and child labour in the cotton industry. There had been engagement from multiple stakeholders, and strong political will from the Government, and the problem had been resolved. Investors were now returning to the country and its exports were growing, showing a true story of growth and decent work. It should be replicated elsewhere. The gap analysis quoted from the 2021 CEACR General Survey on Promoting employment and decent work in a changing landscape, which made reference to Recommendation No. 204. When the Committee on the Application of Standards discussed the General survey in 2021, the Employers had highlighted that adopting more flexible work arrangements, including outsourcing and subcontracting, did not mean pushing workers to informality. Well-designed reorganization of work processes could increase efficiency and productivity and thus make enterprises and employment in the formal sector more sustainable. It was of course for national authorities to make sure that such reorganizations did not lead to “disguised employment”. The General Report of the Committee on the Application of Standards² was silent on supply chains in relation to Recommendation No. 204. It noted tripartite commitment to facilitating the transition to the formal economy and stressed the need to

² ILO, *Report of the Committee on the Application of Standards, Part One, General Report, ILC.109/6A, 2021.*

implement Recommendation No. 204. In its section on “ILO means of action”, there was no mention of the need for a new standard. Paragraph 332 of the report said: “Stressing the importance of building a human-centred and job-rich recovery, as well as the need to shape a sustainable, resilient, secure and inclusive future of work”, the Committee recalled the Centenary Declaration, which states that the ILO must direct its efforts to “supporting the roles of the private sector as a principal source of economic growth and job creation by promoting an enabling environment for entrepreneurship and sustainable enterprises” and support governments in “strengthening the institutions of work to ensure the protection of all workers and reaffirming the continued relevance of the employment relationship as a means of providing certainty and legal protection to workers”.

- 284.** The Employer Vice-Chairperson requested that her above statement be reflected in the report of the Working Group. Returning to paragraph 3.A.5, and in response to the comments made by the Government representative of Germany, she proposed adding the word “trends” after “legislation”.
- 285.** The Worker Vice-Chairperson said that the Office had clearly identified normative challenges related to the cross-border nature of supply chains. It might have prevented confusion if the word “gaps” had been used, rather than “challenges”. Among the key findings in the gap analysis, subparagraph 1.1.1 read: “the ILO normative corpus addresses most of the decent work deficits that are associated with supply chains.” The word “most” clearly implied “not all”. Moreover, the only ILO standard to be universally ratified was Convention No. 182. There was a definite ratification gap. In many sectors, workers were excluded from protection. In agriculture, for instance, workers were often exploited in the context of global cross-border supply chains. Workers in cocoa or garments were not exempt. It was a fact that most international labour standards were not fit for purpose in a cross-border context. It was important to base the Working Group’s debates on the entire gap analysis, not simply on those parts that the Employers chose to quote.
- 286.** The Worker Vice-Chairperson requested that her above comments be reflected in the report of the Working Group. Returning to paragraph 3.A.5 of the draft building blocks, she proposed replacing “paradigm shift” with “global, regional and national regulatory initiatives”; replacing “normative gaps” with “normative challenges” and disagreed with the Employers’ proposal to add the word “trends” after “legislation”.
- 287.** The Government representative of Germany presented new Government group drafts of paragraphs 3.A.5 to 3.A.8, as follows:
5. Assess the impact and effectiveness of global, regional, and national regulatory initiatives and trend to protect human rights, in particular labour rights, in supply chains on addressing normative gaps in international labour standards.
 6. Assess options of potential new normative and non-normative measures to strengthen the state obligation to protect and the corporate responsibility to respect labour rights along all levels of supply chains.
 7. Develop a coherent approach to internationally recognized human rights due diligence as reflected in the UN Guiding Principles and the MNE Declaration.
 8. If 3.5, 3.6, and 3.7 meet with agreement, paragraph 3.8 becomes redundant, though the words “the changing world of work and the specific challenges of cross-border supply chains” should be placed elsewhere in the text.
- 288.** New paragraph 3.A.5 retained the Employer’s group amendment to include “effectiveness” and the use of the term “regulatory” instead of “legislative” suggested by the Workers’ group. It reflected the consensus on keeping the last part of the sentence from the original text on

addressing normative gaps. The first part assessed what was happening in the outside world, and the second part described how the ILO should react to that. Paragraph 3.A.6 included non-normative measures, added state obligations in addition to corporate responsibility, and referred to “all levels of supply chains”, instead of global supply chains, or simply supply chains. Paragraph 3.A.7 clarified that the building blocks’ purpose was to guide the Office in developing a coherent approach to the issue and addressed the Employers’ criticism that a text calling on the ILO to “establish” a due diligence framework would be inappropriate given the existing framework provided by the UN Guiding Principles. Paragraph 3.A.8 of the original draft by the Office seemed redundant, but the wording “the changing world of work and the specific challenges of cross-border supply chains” should be inserted elsewhere.

- 289.** The Employer Vice-Chairperson urged the Working Group to work towards consensus. She proposed the following revisions to the new text of the Government draft: in paragraph 3.A.5, pluralize the word “trend” to “trends”; after the words “protect human rights” add “in supply chains,” and delete “in particular labour rights in supply chains”; after the word “normative” add “and implementation gaps” and delete “in international labour standards”. In paragraph 3.A.6, add the word “possible” between “Assess” and “options”; after “options” insert “, added value, and consequences”; replace “labour rights” by “human rights” and delete “along all levels of”, though the latter wording could be retained if it had majority support. In paragraph 3.A.7, replace “Develop a coherent approach to” by “Promote”; and replace “as reflected in” by “in line with”. Paragraph 3.A.8 should be deleted.
- 290.** The Worker Vice-Chairperson regretted that a “one step forward – two steps backwards” approach appeared to be setting in. The Government group had made a huge effort to progress, and the Workers would make as few changes as possible. The group could accept the Government group text with the addition at the end of paragraph 3.A.6 of the wording “, taking into account the changing world of work and the specific challenges of cross-border supply chains”, which was the proposed wording in paragraph 3.A.8. It was important to recognize that some supply chains crossed borders, and that there were specific challenges related to those supply chains. Paragraph 3.A.8 would thus become redundant.
- 291.** Turning to the Employers’ amendments to paragraph 3.A.5, the Workers stressed that the public was not always aware that human rights included labour rights. It was therefore appropriate for the ILO to recall that fact specifically. The group appreciated the Employers’ understanding of the need to address non-normative gaps but could not accept the deletion of gaps “in international standards”, which was the subject of the meeting. As the gap analysis reported, there were implementation gaps, and there were gaps related to the cross-border nature of supply chains. The Workers required clarification of the Employers intentions in the deletion of “in international standards”. In paragraph 3.A.6, similarly, “labour rights” should be spelt out by using wording such as “human rights, including labour rights” or “human rights, in particular labour rights”, to align with paragraph 3.A.5. The word “options” already referred to possibilities, thus there was no need to add “possible” before “options”. “Added value” came from the original draft and was acceptable to the Workers’ group. The use of the word “consequences” was unclear and would be confusing to the Office in conducting follow-up action. It was important to refer to “all levels of supply chains”, since different tiers of one supply chain could be in different countries and, as recognized in the gap analysis, that raised specific problems, challenges and gaps.
- 292.** Regarding point 3.A.7, it was regrettable that the Employers’ group did not see the merit and the added value of the original proposal to include such elements as level-playing fields and legal certainty, normally favoured and requested by business. Paragraph 3.A.7 as it now stood did little more than repeat what everybody agreed regarding human rights due diligence. It should specify how to promote the internationally recognized frameworks, stressing the need for a coherent

approach that could go beyond the existing guidelines but remain coherent with them. The wording “in line with” implied to keep the status quo without adding anything new. The Workers could not therefore accept the Employers’ amendments to paragraph 3.A.7.

- 293.** The Employer Vice-Chairperson explained that the wording “in line with” implied policy coherence with the defined concept of “human rights due diligence” and globally recognized international framework. The wording “human rights due diligence” had been agreed in May 2022 by the B7-L7 together in their joint statement: “the B7 and the L7 commit to Responsible Business Conduct, in accordance with the UN Guiding Principles on Business and Human Rights, the OECD Guidelines and the ILO MNE Declaration. Human rights due diligence and remedy, including effective operational-level grievance mechanisms, in line with the UN Guiding Principles on Business and Human Rights, are fundamental in the parts of Corporate Responsibility to respect human rights.” The intent was to stress the importance of policy coherence to avoid confusion and ensure impact. The gap analysis linked cross-border challenges to weak governance. The Employers’ aim was to bring all the ILO’s work together in a coherent whole. The building blocks did not need to be only about new action but should promote coherence of existing action on supply chains.
- 294.** The Government spokesperson said that “normative gaps” in paragraph 3.A.5 had to include gaps in international labour standards, and he could not accept the deletion of those words. In paragraph 3.A.6, the addition of the word “possible” before “options” was tautological and redundant. His group supported the addition of “added value”, but not of “consequences”. It also accepted the Employers’ wording “human rights in supply chains” and supported the Workers’ proposal to add “taking into account the changing world of work and the specific challenge of cross-border supply chain” to the end of paragraph 3.A.6. In that same paragraph, the Employers’ proposal to replace “develop a coherent approach” by “promote” was not supported. The ILO needed to be seen to be doing something new and adding value.
- 295.** The Worker Vice-Chairperson reiterated her group’s opposition to the Employers’ wording for paragraph 3.A.5. She proposed a revision to read “addressing the normative gaps in international labour standards, including “and implementation gaps”, since the gap analysis indicated that some gaps were related to implementation, and asked the Office to confirm whether that was a faithful reflection of the gap analysis findings. Her group wished to include “labour rights” after “human rights” to stress the integration of the two concepts.
- 296.** The Employer Vice-Chairperson agreed that the discussion was taking two steps backwards. It was uncertain whether paragraph 3.A.5 was still affirming that there were gaps in international labour standards. It would be challenging if the Working Group could not agree on that basic element. The word “consequences” included both positive and negative consequence. Earlier in 2022, the Treasury Department of the United States had updated its guidance on sanctions policy, noting that if it were not applied thoughtfully, its impact could be adverse. It was therefore necessary to learn from policies that worked, by studying the pros and cons. Some negative effects could occur following national regulatory initiatives, such as companies moving out of markets due to the labour conditions and the lack of implementation at the national level.
- 297.** The Worker Vice-Chairperson proposed replacing “consequences” by “potential impact”, since it was impact that was sought.
- 298.** The Employer Vice-Chairperson said that “potential impact” captured the spirit of her group’s intentions.
- 299.** The Government spokesperson also supported the Workers’ suggestion. Regarding his group’s position and understanding of the gap, in August 2020, the ILO had informed the global community that universal ratification of Convention No. 182 had been attained: a great moment

for every ILO Member State, as it was the first ever universal ratification in the history of the Organization. However, In June 2021, the global child labour report³ showed that over the previous four years, child labour had risen by 8 million. There was no gap in ratification, but there was a gap in implementation. The gap analysis echoed that situation, showing that ratification did not apply to all relevant segments of the workforce.

- 300.** The Government representative of Bangladesh stressed, in paragraphs 3.A.5 and 3.A.6, the importance of including labour rights as well as human rights. While aware that human rights encompassed labour rights, the ILO was primarily responsible for labour rights, and that should be stated clearly.
- 301.** The Employer Vice-Chairperson, responding to the Government spokesperson, said that she had questioned the ILO Director-General on the increase in child labour concurrent with universal ratification of Convention No. 182, and what that might mean. The Director-General had replied that, as often noted by the Employers, it had to do with insufficient implementation. Ratification at the international level was not enough: implementation on the ground was also needed.
- 302.** The Worker Vice-Chairperson recalled that the Government group had clearly stated that they believed there were normative gaps in international labour standards. It would be useful to have a clear expression of the Employers' views on that matter.
- 303.** The Employer Vice-Chairperson said her group welcomed the clarification given by the Office in that regard. The Employers aligned with that clarification: international labour standards covered all elements of decent work.
- 304.** The Worker Vice-Chairperson called a point of order. This central issue of gaps in international labour standards could perhaps best be dealt with by a meeting of the Officers of the Working Group.
- 305.** The Employer Vice-Chairperson said that her group wanted to make progress, but that her Worker counterpart had not called a point of order. She had simply interrupted. That was unacceptable behaviour and should be reflected in the report of the meeting.
- 306.** The Chairperson stated that she had not accepted the point of order and asked the Working Group to return to its work on the draft building blocks.
- 307.** The Worker Vice-Chairperson admitted to uncertainty regarding the precise nature of a point of order and apologized for interrupting. However, it was clear that the social partners had a difference of understanding regarding a very basic part of the Working Group's mandate, and it would be hard to move forward without some agreement on that. Both the Government and the Workers' groups expected the preamble to clarify certain important elements, but if the Employers persisted in denying the basis of the ILO's work since the 2016 Conference discussion on global supply chains, it would be very hard to achieve consensus.
- 308.** The Chairperson suspended the discussion on Part 3.A. She invited the Working Group to take up Part 3.B. MNE Declaration.

³ ILO-UNICEF, *Global Estimates 2020, Trends and the Road Forward*, 10 June 2021.

MNE Declaration

309. The draft Office text read as follows:

B. MNE Declaration

- Make better use of the MNE Declaration including by:
 - (i) facilitating national dialogues to address challenges at national level, to support employers' and workers' organizations to promote the principles of the Declaration and responsible business conduct through a variety of means, and to help companies understand how they can contribute to the realization of the principles in their operations;
 - (ii) supporting company-union dialogue and dialogue between home and host country governments;
 - (iii) supporting governments and multinational as well as national enterprises to take appropriate steps to ensure access to effective remedy; and
 - (iv) awareness-raising and capacity-building of tripartite constituents and enterprises with technical support at country level.

310. The Worker Vice-Chairperson proposed replacing, in the chapeau paragraph, "Make better use of the MNE Declaration" by "Maximize the potential of the MNE Declaration through its promotion and effective implementation".

311. The Employer Vice-Chairperson said that her group wished to modify the original language by replacing "Make better use of the MNE Declaration" with "Better promote the principles of the MNE Declaration".

312. The Government spokesperson supported the Workers' amendment.

313. The Worker Vice-Chairperson said that the MNE Declaration contained both principles and rights, and that her group's amendment was both more comprehensive and general. The group could not support the Employers' proposal.

314. The Employer Vice-Chairperson said that she was not currently in a position to be able to agree or disagree with the Workers' proposal.

315. The Chairperson considered that there was no consensus regarding the chapeau, and invited the Working Group to turn to paragraph 3.B(i).

316. The Employer Vice-Chairperson said her group had no amendments to paragraph 3.B(i)

317. The Worker Vice-Chairperson proposed the following amendments to paragraph 3.B(i): replace "national dialogues" with "national and cross-border dialogues, with the full participation of the social partners,"; add after "challenges" "relating to the implementation of the MNE Declaration; delete "national level"; add before "principles" ", respect and realise" and after "principles" add "and rights; replace "responsible business conduct" by "the corporate responsibility to respect human rights"; replace the final phrase, starting from "help companies understand [...]" by "assist companies to comply with the responsibilities in their operations as well as within the framework of sustainable development, to contribute to the economic and social welfare and the improvement of standards of living;" The amended paragraph would read as follows:

facilitating national and cross border dialogues, with the full participation of the social partners, to address challenges relating to the implementation of the MNE Declaration, to support employers' and workers' organization to promote, respect and realise the principles and rights of the Declaration and the corporate responsibility to respect human rights through a variety of means and assist companies to comply with the responsibilities in their operations as well

as within the framework of sustainable development, to contribute to the economic and social welfare and the improvement of standards of living;

- 318.** The Government spokesperson said he supported the amendments proposed by the Workers, all of which had featured in the earlier discussions and position statements.
- 319.** The Government representative of China preferred the use of “the involvement of the social partners” instead of “full participation of social partners”. That was the language used in the conclusions of the Expert Meeting on Cross-border Social Dialogue.
- 320.** The Employer Vice-Chairperson could not support the additional words “cross-border”. She agreed to both the Workers’ version and that of the Government representative of China, regarding the full participation or involvement of the social partners; the inclusion of “implementation of the MNE Declaration” and the deletion of “at national level” were not acceptable; her group could not support the introduction of “respect and realise”; the MNE Declaration contained principles, not rights, and therefore the Employers could not accept the addition of “and rights” in relation to that Declaration. Her group could not accept the insertion of “corporate responsibilities to respect human rights, and the new text proposed following that insertion. While that text came directly from the UN Guiding Principles, it placed undue weight on one principle guiding company action, while the UN Guiding Principles included many principles to be applied to governments and workers as well as companies.
- 321.** The Worker Vice-Chairperson could not understand the reluctance to include “full participation” of the social partners in dialogue, which was clearly better than “involvement. Likewise, she failed to grasp why implementation of the MNE Declaration should be limited to the national level. The Employers appeared to oppose any attempt to use the words “cross-border” in the text. The terms “promote, respect and realise” were frequently used in the application of the UN Guiding Principles and, again, it was hard to see why exception should be taken to them. The MNE Declaration referred to a wide array of rights, and was based on the recognition of those rights, including fundamental principles and rights at work. Where the Employers had suggested that the proposed text singled out the enterprise pillar of responsibility under the UN Guiding Principles, the Workers would be happy to include the responsibilities of other actors as well. Her group had found the original language suggesting that companies needed to “understand how they can contribute to the realisation or principles” to be very weak. It was worrying that there appeared to be such a deep-running divergence over the MNE Declaration, a core ILO instrument dealing with corporate social responsibility.
- 322.** The Employer Vice-Chairperson said her group had already indicated its preference for the original language. The MNE Declaration did of course cover the fundamental principles and rights and work, but its title referred to principles: it was a matter of consistency of terminology. The Employers understood this paragraph to be aiming at addressing challenges at national level. That was why the group had supported it in its original version, with its national level focus.
- 323.** The Government representative of Senegal proposed adding “and regional” after “social” and before “dialogue”, as regional and subregional organizations had a role to place in promoting the MNE Declaration. He approved the amendment proposed by the Government representative of China, to replace “full participation” by “involvement” of the social partners”.
- 324.** The Worker Vice-Chairperson said that her group had no amendments to paragraph 3.B(ii).
- 325.** The Employer Vice-Chairperson proposed dividing paragraph 3.B(ii) into two paragraphs, as follows: new point (ii) “promoting the ILO company-union dialogue procedure;” and new point (iii) supporting dialogue between home and host country governments;”

- 326.** The Worker Vice-Chairperson did not agree with the replacement of original paragraph (ii) but could agree to the addition of “support”, as the MNE Declaration read that there was a “need to support dialogues involving multinational enterprises and the representatives of the workers affected, in particular trade unions”.
- 327.** The Government spokesperson supported retaining the original wording of the document but was open to adding elements from the Employers’ proposal. However, the group also had a proposal.
- 328.** The Government representative of the Philippines, on behalf of the Government group, proposed adding a new paragraph 3.b(ii), the wording of which was based on paragraph 12 of the MNE Declaration:

facilitate dialogues and cooperation between home and host countries of cross-border/MNE enterprises to assist developing and least-developed economies in enforcing/implementing labour standards and ensuring decent work in supply chains, and therefore promote the goals set out in the 2008 ILO Declaration on Social Justice for a Fair Globalization.

The wording was based on paragraph 12 of the MNE Declaration

- 329.** The Government spokesperson recalled that the Working Group was not developing a strategy, but simply producing building blocks that could be used as a basis for a strategy.
- 330.** The Government representative of Canada agreed with the Government spokesperson. Ultimately the question here was how the ILO could do more to promote the MNE Declaration. The Working Group was not called on to re-write the MNE Declaration.
- 331.** The Government representative of Sweden on behalf of the EU and its Member States asked about the meaning of “ILO company-union dialogue”.
- 332.** The Worker Vice-Chairperson proposed stopping the text after “through a variety of means”. She withdrew her group’s amendments from that point onward, as well as the amendment on “the corporate responsibility to respect human rights”, although the language that amendment replaced was not in line with the MNE Declaration. She wished the report to reflect her disagreement with the Employers’ group that the MNE Declaration was not about rights but withdrew the amendment to add “and rights” in the phrase “the principles and rights of the Declaration”. In that connection, her group wished not to promote the “principles of the MNE Declaration”, but rather to promote “implementation of the Declaration”. That phrase would now read “support employers’ and workers’ organizations to promote [respect and realize] the principles and implementation of the Declaration”. The group also withdrew its amendment to replace “involvement” by participation”. All other amendments were retained.
- 333.** The Workers’ group also supported the paragraph proposed by the Government representative of the Philippines on behalf of the Government group, but in a shortened version, with the phrase following the words “supply chains” deleted.
- 334.** Regarding paragraph 3.B(v) (formerly paragraph 3.B(iii)), the group proposed the addition, after “steps to ensure”, “in particular effective grievance mechanisms and”, to read:

supporting governments and multinational as well as national enterprises to take appropriate steps to ensure in particular effective grievance mechanisms and access to effective remedy;
and

- 335.** The Employer Vice-Chairperson subamended their proposal for the introductory paragraph of the section, to read “Maximize the potential of the MNE Declaration through its promotion and effective implementation, including by”. In respect of paragraph 3.B(iii) her group subamended its proposal to read “promoting and supporting the ILO company-union dialogue procedure;” but

wished to retain “supporting dialogue between home and host country governments” as a separate, stand-alone item.

336. The Worker Vice-Chairperson agreed to the addition of “promoting” but wished to promote the dialogue itself, rather than a procedure, wanted to support the dialogue itself. She asked if the Employers insisted on the word “procedure”. Her group did not support having two, stand-alone points.
337. The Employer Vice-Chairperson understood that the procedure itself was the company-union dialogue.
338. The Worker Vice-Chairperson asked the Office to clarify the meaning of “company-union dialogue”. The need was to support dialogue, not a dialogue procedure.
339. The secretariat confirmed that company-union dialogue was an operational tool of the MNE Declaration as adopted by the Governing Body in 2017. It was a procedure under which the ILO, when requested jointly by a company and a union, could facilitate dialogue between those two stakeholders. To date, the ILO had received six such joint requests. Requests could cover any MNE Declaration items or could be linked to conversations or issues between MNEs and unions. Company-union dialogue could be promoted by the Office, on request by the Governing Body, including through the ILO Helpdesk.
340. The Worker Vice-Chairperson said that her group strongly supported raising awareness of the procedure and facilitating or supporting dialogue. Both notions should be included.
341. The Government representative of Bangladesh supported the proposal of the Government representative of the Philippines.
342. The Government representative of South Africa supported adding the Employers’ input but not changing the original wording of the rest of the text.
343. The Employer Vice-Chairperson suggested rephrasing the paragraph concerning support to governments as follows: “supporting governments to ensure access to effective remedy and multinational as well as national enterprises to encourage their business partners to provide access to effective remedy”. The text was based on paragraphs 64 and 65 of the MNE Declaration.
344. The Worker Vice-Chairperson stated that not only governments had responsibilities for access to effective remedy, but also multinationals and trade unions, referring to paragraph 4 of the MNE Declaration. The Employers’ group should focus on keeping its language general and not go against the principles of the MNE Declaration.
345. The Employer Vice-Chairperson said they agreed with the Government representative of Canada not to rewrite the MNE Declaration but had quoted directly from it.
346. The Worker Vice-Chairperson said that there were two options: either quoting paragraphs 64, 65 and 66 of the MNE Declaration in full, or staying with the original language of the Office, which in her view provided general support to governments and multinationals, as well as national enterprises, to take appropriate steps to ensure access to remedy and grievance.
347. The Chairperson suggested, given the disagreements and the time constraints, to go back to the language presented by the Office in its entirety for the section on the MNE Declaration. It was not a perfect solution, and she was particularly aware of the sentiments of the Workers’ and Government groups, but there had been strong support from the three groups on using the MNE Declaration in the building blocks. Another option would be to adopt more concise and general wording.

- 348.** The Worker Vice-Chairperson said that her group was ready to consider returning to the original text, but it would depend on how the Working Group dealt with the other building blocks. She wished it to be recorded that she did not find the original text very satisfactory.
- 349.** The Employer Vice-Chairperson stated that the original Office text was not correct, since the MNE Declaration did not call on companies to provide access to remedy. However, article 22 of the UN Guiding Principles did place that responsibility on business. Effective access to remedy was an important point, and her group acknowledged the role of companies.
- 350.** The Government representative of the United States stated that, in view of the time constraints and the shared commitment to move forward in an efficient way, he would support the Chairperson's proposals to either go with the original Office text or even to make it more brief, as their focus was not on restating the contents of the MNE Declaration, but rather on emphasizing that they wanted to make better use of it. A one-sentence option could be: "make better use of the MNE Declaration, including as an integrated part of a comprehensive supply chain strategy".
- 351.** The Worker Vice-Chairperson said she would prefer to go back to the original Office text because otherwise the whole concept of building blocks, already rather vague, would become even more blurred as multiple subsections were added willy-nilly. It was clear, as the Employers' group itself had already stated, that in the context of the UN Guiding Principles, the OECD Guidelines and the MNE Declaration, multinationals and enterprises had a duty to take appropriate steps to deal with grievance and remedy. That was what the Office had tried to capture. She requested that this point be reflected in the report of the meeting.
- 352.** The Employer Vice-Chairperson stated that the Employers' group aligned itself with the Chairperson's idea of simplifying the text, which at present was incorrect. She could also support the proposal of the Government representative of the United States.
- 353.** The Government representative of Sweden, speaking on behalf of the EU Member States, supported using the original language of the Office. It was disappointing, as some of the Government group's proposed amendments would disappear, but it was necessary to make progress.
- 354.** The Government representatives of Bangladesh, China and South Africa supported the Chairperson's proposal to retain the Office text.
- 355.** The Worker Vice-Chairperson proposed keeping the new paragraph proposed by the Government representative of the Philippines, which concerned issues of great importance to some countries.
- 356.** The Government representatives of Bangladesh, China, Mexico and Sweden supported the Worker Vice-Chairperson's proposal.
- 357.** The Government representative of the United States also supported the proposal but wished to replace the word "enforcing" by "implementing".
- 358.** The Employer Vice-Chairperson did not agree with the proposal of the Worker Vice-Chairperson. She indicated that she had agreed to go back to the original language, provided that the text on the grievance mechanism was corrected.
- 359.** The Chairperson said that she thought everyone had agreed to go back to the original language. Now, she was trying to see whether there was agreement by all to keep the part suggested by the Worker Vice-Chairperson. She recognized that the Employer Vice-Chairperson was not comfortable with that suggestion.
- 360.** The Worker Vice-Chairperson pointed out that with all the changes that were gone the word "grievance" was not in the text anymore.

- 361.** The Government representative of Sweden, speaking on behalf of the EU Member States, was disappointed that the suggestion of the Worker Vice-Chairperson was unacceptable, as it was a very pertinent proposal.
- 362.** The Worker Vice-Chairperson echoed the previous speaker's disappointment and informed the Chairperson that the Workers group had a proposal for an additional section to be inserted after the MNE Declaration section that she would present later.
- 363.** The Working Group adopted the original text as presented by the Office (paragraph 307).

Research, knowledge and practical tools

- 364.** The Chairperson invited the Working Group to turn to the section of the draft building blocks on Research, knowledge, and practical tools.
- 365.** The Office draft read as follows:

Research, knowledge, and practical tools

1. Strengthen ILO research through a coordinated research agenda on supply chains, including:
 - (i) analysis of challenges and best practices at all levels and tiers in developing and developed countries;
 - (ii) research on global and bi-lateral trade and its impact on decent work in supply chains;
 - (iii) partnerships with international and multilateral organizations.
 2. Support states in collecting and analysing data to inform evidence-based policies to advance decent work in supply chains, for example, by addressing informality.
 3. Establish a knowledge centre for the sharing of best practices, including through peer learning and South-South and triangular cooperation.
 4. Establish a Helpdesk to help companies conduct due diligence and that provides information on the findings of ILO supervisory mechanism and country data and information.
- 366.** The Employer Vice-Chairperson wished to amend paragraph 4 by deleting the word "help", and adding, after "Establish a Helpdesk to" "provide information and tools to support"; after the word "companies" and before "due diligence", insert "in conducting their human rights"; after "due diligence add the phrase "in line with the UN Guiding Principles and the MNE Declaration,"; after "information on the" insert "content of ILO standards and"; between the words "of" and ILO supervisory mechanism, insert "the"; and after the words "data and information, add "on specific challenges on the ground".
- 367.** The Worker Vice-Chairperson made the following amendments to the section: in paragraph 1, replace the words "Strengthen ILO research through" by "Develop"; in paragraph 1(i) delete the fourth word "and", and between "best practices" and "at all levels" insert "and drivers of decent work deficits". In paragraph 1(ii) add after "global" the word "regional" and insert the words "the realisation of" between "impact on" and "decent work". Add a new paragraph 1(iii) to read "research on access to justice and effective grievance mechanisms in supply chains". The group requested clarification regarding the meaning of the previous paragraph 1(iii) (now 1(iv)): "partnerships with international and multilateral organizations".
- 368.** The Workers saw no reason to establish a Helpdesk at headquarters, as one already existed in relation to the MNE Declaration. The group could however concede that the existing Helpdesk might be reinforced. However, it was not exclusively for the use of companies, but was also there for workers' and employers' organizations. The group therefore wished to amend paragraph 4 as follows: replace the words "Establish a" by "Strengthen the ILO"; replace the word "help" by

“assist”; add, after “companies” “workers’ and employers’ organizations”; after the words “due diligence” add the word “processes”; replace the word “mechanisms” by “system”.

- 369.** The representative of the Director-General explained that by “partnerships with international and multilateral organizations” the Office meant to strengthen its engagement with entities such as the OECD and the WTO to deepen research in global supply chains. This was also in line with ILO’s Global call to action. Regarding the establishment of a helpdesk or the improvement of the existing one the purpose was to enhance the provision of information by leveraging the ILO supervisory system, including databases such as NATLEX or NORMLEX.
- 370.** The Government spokesperson amended paragraph 1(i) by deleting the word “and” after the word “challenges”, and adding the words “including root causes”. In paragraph 3, he proposed deleting the first six words and starting the paragraph at “Sharing of best practices”. The group requested clarification regarding the creation of a knowledge centre and supported the Workers’ proposal to strengthen the existing Helpdesk, not create a new one.
- 371.** The representative of the Director-General explained that the reference to knowledge resources or to a knowledge centre aimed at pooling and organizing existing information to make it more accessible to users.
- 372.** The Government representative of Sweden, speaking on behalf of the EU and its Member States, was uncertain regarding the establishment of a knowledge centre. It would be preferable to refer to “gathering information”. He asked the Office to explain the difference between this “knowledge centre” and the “innovation unit”.
- 373.** The Worker Vice-Chairperson said that she preferred to refer to the sharing of best practices, as the Government group had proposed, rather than instigate the creation of a new knowledge centre.
- 374.** The Government representative of the United States supported the Workers’ proposal for a new paragraph 1(iii): “research on access to justice and effective grievance mechanisms in supply chains”.
- 375.** The Government representative of the United Kingdom endorsed the Workers group amendment to paragraph 4 regarding the strengthening of the ILO Helpdesk. She asked the Office to whether the new Knowledge Management and Innovation Unit could perform the function of a “knowledge centre”, rather than establishing a new facility.
- 376.** The Employer Vice-Chairperson recognized that the ILO’s website contained a wealth of information. However, those resources could be organized in a more useful manner, which was why the group had suggested the creation of the helpdesk. The Employers also favoured the idea of strengthening the existing Helpdesk and could support the Workers’ amendment in that connection. Employers were also not against including workers’ and employers’ organizations’ access to the Helpdesk but noted that assistance in human rights due diligence was particularly pertinent to companies, rather than to other entities. The group therefore proposed a rewording of that paragraph to read: “strengthening the ILO helpdesk to provide information and tools to support workers and employers’ organizations, and support companies in conducting their human rights due diligence”. The Employers also supported the Government amendment to paragraph 1(i), adding “including root causes” to the wording; and the deletion, by the same group, of the first six words of paragraph 3. Regarding paragraph 1(iii) introduced by the Workers’ group, the text might be improved by replacing the word “justice” by “remedy”, to read “research on access to remedy [...]”.

- 377.** The Representative of the Director-General responding to a question from the Government representative of the United Kingdom, said that the establishment of a new Knowledge Management and Innovation Unit was under consideration following the election of the new Director-General and would be the subject of a paper before the Governing Body in November. For the moment the Office could not provide more information in that regard.
- 378.** The Government representative of the United Kingdom gave her support to the current text under point 3: "Sharing of best practices, including through peer learning and South-South and triangular cooperation".
- 379.** The Worker Vice-Chairperson proposed changing the order of the wording in paragraph 1 to make it more logical. The group supported the Government group addition of "root causes" but proposed the following wording: "analysis of challenges, best practices, root causes and drivers of decent work deficits", or alternatively: "analysis of challenges, root causes and drivers of decent work deficits, as well as best practices". With respect to paragraph 1(iii), the Workers agreed with the Employers' suggestion to replace "justice" by "remedy". The group also supported paragraph 3 in its version as revised by the Government group. Regarding paragraph 4, the purpose of a helpdesk was not to assist employers in conducting their human rights due diligence. Companies should hire their own support, such as external experts, in that regard. Paragraph 4 should be simpler and more general, with the following wording: "strengthen the ILO Helpdesk to assist companies, as well workers and employers' organizations, in human rights due diligence processes". All three parties participated in those processes, so the Helpdesk should not be instructed to assist one party alone. The Workers supported the original Office draft text of paragraph 4 and could accept the Employers' inclusion of references to the UN Guiding Principles and the MNE Declaration.
- 380.** The Employer Vice-Chairperson said that her group would provide revised wording to accommodate the views expressed by the Workers and make clear the purpose of the inclusion of "information and tools" and the distinct roles of companies and businesses in conducting human rights due diligence.
- 381.** The Worker Vice-Chairperson reiterated her group's opposition to any wording suggesting the Helpdesk would assist companies in conducting their human rights due diligence. The group also opposed the reference to "specific challenges on the ground". That wording was too vague.
- 382.** The Government representative of Bangladesh urged participants not to lose sight of the needs of developing countries. Bangladesh and other developing countries had made wide-ranging inputs during the Working Group's general discussion, and they should be adequately reflected in the final text. The level of negotiation between the groups was excessive given that the aim was only to produce building blocks. It was the developing countries that would profit most from those building blocks, as the decent work deficits in supply chains were to be found in those countries. He hoped that he would be able to include a sentence at the end of the outcome document addressing the points raised by developing countries.
- 383.** The Government representative of Senegal wished to add a new paragraph indicated the intention to add point 5 in the section, to read: "develop practical tools to enhance the means of labour inspection in the supply chain".
- 384.** The Employer Vice-Chairperson in respect of paragraph 4, proposed adding after "country data and information" the words "on decent work". She supported the additional paragraph 5 proposed by the Government of Senegal.
- 385.** The Worker Vice-Chairperson suggested adding "in supply chains" after "on decent work" and gave her group support to paragraph 5 proposed by Senegal.

386. The Employer Vice-Chairperson agreed to the inclusion of “in supply chains” proposed by the Workers.

387. The Working Group adopted the section “Research, knowledge and practical tools” to read as follows:

Research, knowledge, and practical tools

1. Develop a coordinated research agenda on supply chains, including:
 - (i) analysis of challenges, best practices, as well as root causes and drivers of decent work deficits at all levels and tiers in developing and developed countries;
 - (ii) research on global, regional and bi-lateral trade and its impact on the realisation of decent work in supply chains;
 - (iii) research on access to remedy and effective grievance mechanisms in supply chains; and
 - (iv) partnerships with international and multilateral organizations.
2. Support states in collecting and analysing data to inform evidence-based policies to advance decent work in supply chains, for example, by addressing informality;
3. Sharing of best practices, including through peer learning and South-South and triangular cooperation;
4. Strengthen the ILO Helpdesk to assist companies as well as Workers and Employers’ organizations with regard to human rights due diligence processes, in line with the UN Guiding Principles and the MNE Declaration, and to provide information on the findings of ILO supervisory system and country data and information on decent work in supply chains; and
5. Develop practical tools to strengthen the means of labour inspection in supply chains.

388. The Worker Vice-Chairperson recalled their proposal to insert a new section on enabling rights under the MNE Declaration section and suggested that it be shared by the Secretariat for examination by the groups.

389. The Government group proposed sharing the group's draft preamble to the building blocks, which read as follows:

Preamble

1. This document is the result of the discussions that followed the Tripartite Working Group on options to ensure decent work in supply chains. Following the decision of the Governing Body at its 341st Session, the aim of this discussion was to develop, with the assistance of the Office, the building blocks for a comprehensive strategy on achieving decent work in supply chains.
2. Global supply chains have contributed to economic growth, poverty reduction, job creation, employment formalisation, as well as entrepreneurship. At the same time, failures at all levels within global supply chains have contributed to decent work deficits for working conditions such as in the areas of occupational safety and health, wages, working time, and which impact on the employment relationship and the protections it can offer. Such failures have also contributed to the undermining of labour rights, particularly freedom of association and collective bargaining.
3. The COVID-19 crisis has affected disproportionately those who are vulnerable to discrimination on all grounds covered by international labour and human rights standards. The upheavals caused by the COVID-19 pandemic have called into question the dominant models concerning the organization of supply chains, in particular those based mainly on optimisation, cost limitation, stock reduction and just-in-time production.
4. It is the responsibility of businesses and their contribution to the elimination of child labour and forced labour by carrying out due diligence in their operations and supply chains and

ensuring responsible and sustainable business practices that address the root causes of child labour and forced labour.

5. The responsibility to respect human rights is a global standard of expected conduct for all business enterprises wherever they operate. It exists independently of States' abilities and/or willingness to fulfil their own human rights obligations and does not diminish those obligations. And it exists over and above compliance with national laws and regulations protecting human rights.
6. Existing ILO standards do not address the problems specific to global supply chains and their cross-border challenges. Hence, the need to take into account the potential of novel normative and non-normative measures to address this problem, in the light of social, political and country-specific contexts. Fiscal and policy space is needed to promote higher value-added activities and sustainable development, particularly in developing countries. The ILO, in providing for tripartite dialogue, has a fundamental and leading role to play in finding these solutions.
7. To this end, this document consists of four parts: the first reaffirms the ILO mandate, the second deals with the ILO's commitments to action, the third sets out the means of action to ensure decent work in supply chains, and the fourth part ensures the sustainability of the strategy.

390. The Chairperson asked the groups to consider the Governments' proposed preamble in their group meetings as well as the Workers' section on Enabling rights, which would be made available to the groups later.

391. Following a break in the discussions, the Government spokesperson, the Employer and Worker Vice-Chairpersons, as well as the Government spokesperson, presented agreed language for the chapeau and paragraphs 5, 6 and 7 of Part 3: Means of action to ensure decent work in supply chains: A. International labour standards. Accordingly, the Working Group adopted the following text:

A fully coordinated, ambitious, holistic, comprehensive ILO strategy that reflects a smart mix of national and international mandatory and voluntary measures to optimize the impact of the ILO's work to ensure decent work in supply chains, building on its tripartite structure and standards system and using all available ILO means of action:

5. Assess the impact and effectiveness of global, regional, and national regulatory initiatives and trends to protect human rights, in particular labor rights in supply chains to inform the development of the ILO approach regarding normative measures focused on addressing any gaps in international labor standards;
6. Assess new normative and non-normative measures and their possible impact to strengthen the state obligation to protect and the corporate responsibility to respect human rights, in particular labor rights in all levels of supply chains; and
7. Further develop options for initiatives that complement the body of international labor standards to take into account the changing world of work, the challenges of cross border supply chains, implementation gaps, and national circumstances, whether through new normative measures, the revisions of existing measures, or supplementary guidelines and tools.

392. The Government spokesperson informed the Working Group that work was going ahead in parallel to the meeting to condense and streamline the text of the draft preamble that had been circulated earlier (paragraph 387).

Enabling rights

393. The Worker Vice-Chairperson presented a slightly reformatted version of the section on enabling rights that her group wished to insert following the part of the building blocks on the MNE

Declaration. A previous version had been shared with the groups to allow them to formulate their positions in its regard. The proposed text now read as follows:

Enabling rights

Prioritize the concrete follow-up on the conclusions of the 2019 Expert Meeting on Cross-border Social Dialogue, recognizing that social dialogue is at the heart of the ILO's mandate and that cross-border social dialogue is an essential aspect of this mandate, while preparing for the future including measures to:

- (i) ensure that all workers enjoy freedom of association and the effective right to collective bargaining without barriers in law or in practice throughout all tiers of supply chains, including in EPZ's, taking into account conclusions of the 2017 Expert Meeting on EPZ's.
- (ii) promote and facilitate social dialogue throughout supply chains, including cross-border social dialogue, and to support Member states, employers' and workers' organizations to strengthen industrial relations systems in line with international labour standards.

394. The first sentence conveyed the main message, while the phrase that began "recognizing that social dialogue. etc" was directly taken from the conclusions of the Expert Meeting on Cross-border Social Dialogue. The text of the following two sentences had not changed from the version circulated earlier; it had been reorganized to appear as points (i) and (ii) under a chapeau.

395. Many interventions had been made stressing the importance of social dialogue in reducing decent work deficits in supply chains. Numerous participants had referred to the important Meeting of Experts specifically on the subject of cross-border social dialogue and had recommended that its messages should be reflected in the building blocks. Moreover, nothing could be more central to the ILO's mandate than ensuring workers could enjoy freedom of association and engage in social dialogue, including in EPZs.

396. The Employer Vice-Chairperson amended the chapeau of the Workers proposal by deleting the words from "prioritize" down to "cross-border social dialogue"; adding, after "ILO's mandate" the words "and that social dialogue,,"; replacing the word "this" by "its" and deleting the remaining words of the paragraph, to read:

Promote measures to ensure that all workers and employers enjoy the fundamental principles and rights at work, as well as the principles embodied in the UN Guiding Principles and the MNE Declaration, recognizing that social dialogue is at the heart of the ILO's mandate and that social dialogue, including cross border social dialogue, is an essential part of its mandate.

397. The Government spokesperson supported the workers' proposal. The repetition of "social dialogue" in the Employers' proposal was clumsy and rendered the meaning unclear.

398. The Employer Vice-Chairperson said that the wording attempted to maintain the intent of the original text, while recognizing that social dialogue had many forms, which included cross-border social dialogue. Her group proposed the addition of a second paragraph, to read:

Reaffirming that cross-border social dialogue occurs in various forms and at different levels. Its effectiveness depends on respect for the autonomy of the social partners, the capacity and willingness of the parties to engage in good faith dialogue, an enabling environment, labour law enforcement and workplace compliance at the national level and appropriate linkages between social dialogue at local, sectorial, national, regional, and global levels in line with the Conclusions of the 2019 Meeting of Experts on Cross-border Social Dialogue.

399. The Worker Vice-Chairperson stressed that enabling rights generally referred to workers, although the social partners did both share the right to freedom of association. Space could be found elsewhere in the text to indicate employers' right to freedom of association. The group also felt that it was important to provide follow-up to the Expert Meeting on Cross-border Social Dialogue, that was why paragraph 2 of the Expert Meeting's conclusions had been quoted. Now

the Employers wished to quote paragraph 4 of those conclusions. The Workers also thought that paragraph 8, on transnational company agreements, and point 12, on promoting an enabling environment for cross-border social dialogue, were important, but there was a need to keep the text concise. The Workers could not accept the Employers' proposal. It was worrying that the importance of fundamental rights could not be simply and briefly stated - especially when the notion for Member States to support both employers' and workers' organizations was included.

- 400.** The Government spokesperson supported paragraph (ii) as proposed by the Workers group.
- 401.** The Government representative of China said he wished to replace paragraph (i) as proposed by the Workers using the language of the Conclusions of the Expert Meeting on EPZs, which read: "Support the social partners to engage in industrial relations and broader social dialogue to reduce fundamental rights and decent work challenges and deficits in EPZs," but adding before "EPZs" the words "both in and out of", to read: "both in and out of EPZs".
- 402.** The Employer Vice-Chairperson supported the amendment proposed by the Government representative of China.
- 403.** The Worker Vice-Chairperson said that in paragraph (i) the Workers' group was addressing the issue of freedom of association and the effective recognition of the right to collective bargaining in general in supply chains, but also pointing to their importance in EPZs by making a broad reference to the conclusions of the Expert Meeting. She understood the Government representative of China's wish to highlight the engagement of the social partners in dialogue and bargaining, but that was not the point in this paragraph. It should be placed elsewhere in the building blocks.
- 404.** The Employer Vice-Chairperson stated that her group was trying to proceed constructively, even though the text under discussion was new.
- 405.** The Worker Vice-Chairperson said that the text under discussion was central to the ILO's mandate, and it was not new in that it had been shared with the groups overnight. In the ILO, it must surely be possible to say that all workers must enjoy freedom of association and the effective right to collective bargaining without barriers in law and practice. Paragraph (i) was not just about just EPZs. The Workers group disagreed with the Employers' proposal as it referred to one specific paragraph among many others from the conclusions of the Expert Meeting on Cross-border Social Dialogue, and the aim was to keep the building blocks general. She proposed replacing the first word of the chapeau - "Prioritize" by the word "Promote", to read: "Promote the concrete follow-up on the conclusions of the 2019 Expert Meeting on Cross-border Social Dialogue".
- 406.** The Government representative of Sweden, speaking on behalf of the EU and its Member States supported paragraph (i) proposed by the Workers group. He proposed including the amendment presented by China in a simplified version within paragraph (i) as drafted by the Workers, by including the words ", inter alia through supporting the social partners" after "the 2017 Experts Meeting on EPZs".
- 407.** The Government representative of China said that the paragraph of the conclusions of the Expert Meeting on EPZs that he wished to include was of particular relevance, as it dealt with freedom of association and the effective recognition of collective bargaining in EPZs.
- 408.** The Worker Vice-Chairperson presented a merged version of the group's draft of paragraph (i), also taking account of the suggestions from the Government representatives of China and Sweden, to read as follows:
- (i) ensure that all workers enjoy freedom of association and the effective right to collective bargaining without barriers in law or in practice throughout all tiers of supply chains,

including in EPZs, taking into account conclusions of the 2017 Experts Meeting on EPZs, inter alia through supporting the social partners to engage in industrial relations and a broader social dialogue to reduce fundamental rights and decent work challenges and deficits in EPZs.

- 409.** The Employer Vice-Chairperson proposed adding “and employers” in the first line after “workers”; inserting after the words “the effective” the words “recognition of the”; and after the words “collective bargaining, to add the words “in supply chains”.
- 410.** The Worker Vice-Chairperson acknowledged that freedom of association and the effective recognition of the right to collective bargaining were enabling rights for both employers and workers. Nevertheless, millions of workers and their representatives faced daily barriers to the enjoyment of those rights, in the informal and formal economies, both in law and in practice, and including in EPZs. Freedom of association and the effective recognition of the right to collective bargaining were fundamental rights and it was part of the mandate of the ILO to promote those rights. The Working Group was addressing issues in global supply chains and it should be possible to recognize that there were specific issues regarding those rights for workers in supply chains.
- 411.** The Employer Vice-Chairperson said that employers around the world recognized the need for enjoyment by workers of freedom of association and effective collective bargaining. But the same rights for employers should be recognized and included in the text, considering cases of violence, jailing, harassment and violations of employers’ rights, for example in Honduras, Nicaragua and the Bolivarian Republic of Venezuela. Her group agreed with the mention of EPZs.
- 412.** The Worker Vice-Chairperson said that her group could not accept the wording in the chapeau proposed by the Employers, which read: “Promote measures to ensure that all workers and employers enjoy the fundamental principles and rights at work, as well as the principles embodied in the UN Guiding Principles and the MNE Declaration”, as the fundamental rights of employers had already been addressed. “Prioritize” could be replaced by “promote” or “Address”. The text currently said that “social dialogue was at the heart of the ILO’s mandate” and that “social dialogue [...] was an essential aspect of its mandate”. While that echoed the conclusions of the Expert Meeting on Cross-border Social Dialogue, the repetition was redundant here. The Workers could not accept the paragraph starting with “Reaffirming that cross-border social dialogue [...]” proposed by Employers.
- 413.** The Employer Vice-Chairperson said her group could not accept deletion of the words from “Promote measures” down “MNE Declaration”, but that they could accept “Address the concrete follow-up” in place of “Prioritize the concrete follow-up”.
- 414.** The Government representative of Sweden, speaking on behalf of the EU Member States, proposed amending paragraph (i) to read “ensure the full enjoyment of freedom of association and the effective recognition of the right to collective bargaining” in replacement of “ensure that all workers and employers enjoy [...], to finish with the discussion on whom those rights belonged to.
- 415.** The Worker Vice-Chairperson said that her group could accept the Employers’ proposed wording from “Promote measures” down to “MNE Declaration” if the paragraph beginning “Reaffirming that cross-border social dialogue occurs” was deleted. The group could also accept the proposal of the Government representative of Sweden.
- 416.** The Employer Vice-Chairperson agreed to delete the paragraph beginning “Reaffirming that cross-border social dialogue occurs”. Her group could not accept the proposal by the Government

representative of Sweden and wished to maintain the wording “all workers and employers enjoy [...]”. Paragraph (ii) was unacceptable.

Development cooperation

417. The Working Group agreed to return to the section on Enabling rights later, and to turn now to the section on development cooperation.

418. The Office draft of the section on development cooperation read as follows:

Development cooperation

1. Establish a One-ILO coordination framework for development cooperation using supply chains as an entry point to address constituents’ needs in decent work country programmes, including with respect to priority sectors, and focusing on:
 - (i) root causes of decent work deficits, with emphasis on supporting good governance and the transition to formality;
 - (ii) all tiers of supply chains and relationships between buyers and suppliers;
 - (iii) opportunities to expand South-South and triangular development cooperation;
 - (iv) collective action, shared responsibility, and specific roles and responsibilities of all actors as outlined in the UN Guiding Principles and MNE Declaration;
 - strengthening the governance capacity of public institutions;
 - building the capacity of the social partners;
 - supporting private sector engagement with resources and tools to promote decent work;
 - (v) coherent resource mobilization strategy in support of the One-ILO framework.

419. The Employer Vice-Chairperson proposed the following amendments: in paragraph 1 replace the word “framework” with “approach”; In paragraph (ii), after “supply chains” insert “particularly SMEs”; in paragraph (v), delete the word “strategy” after “resource mobilization”; after “One ILO” delete “framework” and add the words “approach in line with the constituents’ needs and priorities and DWCPs”.

420. The Worker Vice-Chairperson said that the first word “Establish” should be replaced by “Strengthen”, and the word “framework” should be retained, not replaced by “approach”. instead of establishing something new, it was important to strengthen the ILO coordination framework. In paragraph (i), delete the words after “decent work deficits”; insert a new paragraph (ii) to read: “living wages for the workers through distribution of gains and profits generated in the whole business cycle in a fair and equitable manner”; the group had no changes to former paragraph (ii), (now paragraph (iii)), which had been amended by the Employers, but could accept “including SMEs” in place of the Employers’ “particularly SMEs”; insert a second new paragraph after paragraph (iii), to read “the added value of a sectoral approach to address decent work deficits in specific sectors”; in paragraph (vi) (formerly paragraph (iv)), insert after “collective action,” the words “shared responsibility and the respective duties”; in the third bullet of paragraph (vi), replace the words “private sector engagement” by “enterprises”; delete the words “resources and”, and add the words “in supply chains” after “decent work”; in paragraph (vii) (formerly (v), after the words “One-ILO framework” add the words “with the full involvement of the social partners”.

421. The Government spokesperson recalled the proposal of the Government representative of Senegal regarding the need to “strengthen the means of labour inspection in supply chains”.

422. The Government representative of Argentina said that she could not support deletion of the words: “the transition to formality”.

- 423.** The Government representative of Sweden, on behalf of the EU and its Member States, supported the Employers' use of "approach", to replace "framework" and "strategy" in paragraph 1 and paragraph (vii) respectively. The text should not be over-formalized at this point. New paragraph (ii) could be included in the section on policy coherence - the Government group had discussed that at its group meeting earlier. Governments also supported "including SMEs" rather than "particularly SMEs"; the group supported the Workers proposed new paragraph (ii) on a sectoral approach.
- 424.** The Employer Vice-Chairperson stated that the deletion of "One-ILO" in paragraph 1 was not acceptable. Her group could not support deleting "good governance from paragraph (i), as it was directly related to labour inspection. Employers did not support paragraph (ii) on the question of the living wage, which had been introduced by Bangladesh. It did not belong there, nor under policy coherence. Wording such as "Adequate minimum wage and efforts to increase productivity to support higher household incomes and standards of living" could be considered as a compromise and to move forward. The proposal to replace "particularly SMEs" by "including SMEs" was acceptable. The new paragraph (iv) regarding a sectoral approach, proposed by the Workers, did not have the support of the Employers. It would be preferable to retain the original text than to add "respective duties" to paragraph (vi) (formerly paragraph (iv)). Otherwise, a revised wording might read: "the state duty to protect and the corporate responsibility to respect human rights as outlined in the UN Guiding Principles and MNE Declaration". The group could accept replacement of "private sector engagement" by "enterprises". She asked for a clarification of the distinction between "resources" and "tools". If "tools" included "resources, then the word "resources" could be struck out. The addition of "in supply chains" after "promote decent work" was also supported. Her group preferred its version of paragraph (vii) and did not support the Workers' proposed wording.
- 425.** The representative of the Director-General said that resources came before tools and could include tangible efforts to support development cooperation. The term "resources and tools" was common language in many ILO documents.
- 426.** The Employer Vice-Chairperson said that if it was the term usually applied by the Office, then that formulation should be retained. The aim was to support business, in particular SMEs, in advancing decent work in supply chains.
- 427.** The Government representative of Bangladesh was grateful to the Workers for including his Government's preoccupation with the living wage. However, in the interests of making progress, paragraph (ii) should perhaps feature in the policy coherence section, a possibility that had been discussed by the Government group.
- 428.** The Government representative of Sweden said, from a national perspective, that if "minimum wage" was to be mentioned here, the full term "statutory, negotiated minimum wage" should be used; "good governance" could be retained, but preferably with the deletion of "with emphasis on", and the addition of "including".
- 429.** The Government representative of the United States supported the Workers' proposal to add a new paragraph (ii) on a sectoral approach.
- 430.** The Worker Vice-Chairperson said that ILO development cooperation should not be restricted by linking it to the One-ILO approach as it was in paragraph 1. The second mention of One-ILO, in paragraph (vii), could stand. It would be preferable to refer to the ILO development cooperation framework in general. The Workers had proposed deletion of the phrase "with emphasis on supporting good governance and the transition to formality" because root causes of decent work deficits were multiple. The group could accept the wording suggested by the Government

representative of Sweden: “including good governance”. The group also agreed with governments to move the question of living wages to another section of the building blocks, although it remained pertinent under development cooperation. Regarding paragraph (iv) on a sectoral approach, the Workers insisted that the paragraph remain. Outside the meeting room, many employers supported that approach, and the language was very general, placing no pressure on any party, and recognizing that the employers had a role in a sectoral approach.

- 431.** The Employers’ proposed revision of paragraph (vi), with the wording: “the state duty to protect and the corporate responsibility to respect human rights as outlined in the UN Guiding Principles and MNE Declaration” was acceptable to the Workers. However, “resources” and “tools” often referred to policies. In addition, there was already a paragraph on resource mobilization. The wording “supporting enterprises with resources” should be revised to “supporting constituents”. Paragraph (vii) could be redrafted to include both the Workers’ and Employers’ proposals.
- 432.** The Government representative of Argentina withdrew her position in respect of the inclusion of “transition to formality”.
- 433.** The Employer Vice-Chairperson maintained her group’s stance on keeping a “One-ILO approach” in paragraph 1. Under paragraph (i), the group supported the proposal to replace “with emphasis on” by “including”, on the understanding that “good governance and the transition to formality” would then remain. The Employers were strongly opposed to the term “living wage”, but could accept “adequate minimum wage”. The group maintained its strong opposition to the term “living wages”, which might be replaced by “adequate minimum wages”.
- 434.** The Chairperson recalled that the issue would be addressed in another part of the document.
- 435.** The Employer Vice-Chairperson stressed that the term “living wage” was unacceptable anywhere in the text. In the third bullet of paragraph (vi), she proposed changing the Workers’ wording: “supporting enterprises” to “supporting enterprise engagement”, or “supporting enterprise and constituent engagement”, in order to retain the “engagement” element. In paragraph (vii) the One-ILO approach should be used, instead of “framework”; for the rest of the paragraph, the Employers supported combining their wording with that of the Workers.
- 436.** The Worker Vice-Chairperson agreed to the wording for the third bullet of paragraph (vi) proposed by the Employers: “supporting enterprise and constituent engagement with resources and tools”.
- 437.** The Government Representative of Sweden, speaking on behalf of the EU and its Member States, said that the word “resources” was unclear. The Office should of course support enterprises and constituent engagement, but not only through providing resources - for example through mutual cooperation.
- 438.** The Worker Vice-Chairperson agreed with the Government representative of Sweden that the support should be broader and proposed deleting “resources and tools”. The document was a set of building blocks leading to a future strategy: it was unwise to be too prescriptive. The most important message was that support was needed.
- 439.** The Government representative of Sweden pointed out that companies contributed to ILO work through development cooperation.
- 440.** The Chairperson observed that the Working Group had reached agreement on paragraphs (i), (ii), (iii) and (iv), and that in the chapeau, the only point to be agreed concerned the term “One-ILO”.
- 441.** The representative of the Director-General explained that “One-ILO” was a way of work that leveraged all the different ILO departments to work together in a way that facilitated a holistic and comprehensive approach. It was a working method that had been introduced by the current

Director-General and had been used externally, for example, in the framework of a development cooperation project in Ethiopia which involved multiple departments and programmes.

442. The Worker Vice-Chairperson asked for clarification on the relation between the first and last sentences of the section on development cooperation and, specifically, why “One-ILO” was used in both sentences. In paragraph 1, it would be more logical to talk about strengthening “ILO development cooperation strategy”, a far broader concept than strengthening the One-ILO approach.
443. The Chairperson suggested the wording “Strengthen the ILO coordination framework” in paragraph 1. She also invited the secretariat to propose new general language for paragraph 1.
444. The representative of the Director-General explained that the text sought to concentrate on the supply chain context, not the overall ILO development cooperation strategy. “Strengthen coordination for ILO development cooperation” was a possible wording.
445. The Employer Vice-Chairperson reminded the room that a particular gap in non-normative measures that the Employers had identified was insufficient involvement of constituents in the design of those measures. The group had pointed out that much development cooperation was donor-led, and the result was a patchwork of unconnected projects, which was far less effective than a coordinated whole would be. The mentality of the One-ILO approach should be applied to development cooperation, for better consultation with the constituents about their needs. The Employers supported the references to the One-ILO approach both in the first and last sentences of the section.
446. The Worker Vice-Chairperson suggested the wording “Strengthen the ILO coordination for development cooperation, including the One ILO approach” for paragraph 1, with similar language in paragraph (vi).
447. The other groups supported that proposal.
448. The Chairperson noted that the Working Group had reached agreement on paragraphs 1 and (vi); the third of paragraph (v) still required a decision.
449. The Worker Vice-Chairperson reiterated her suggestion for the third bullet of paragraph (v), “resources and tools” be deleted so that the phrase would read as follows: “supporting enterprises and constituents’ engagement to promote decent work in supply chains”. That would leave the nature of the support to be provided as broad as possible.
450. The Employer Vice-Chairperson said she could support the suggestion on the understanding that that was a building block that could be expended by the relevant parties so as to allow the national tripartite constituents to engage in a dialogue about their needs.
451. The Government representative of Sweden, speaking on behalf of the EU and its Member States, also supported the proposal. He queried whether the proposed language of paragraphs 1 and (vi) was in line with the ILO Development Cooperation Strategy 2020–25.
452. The Chairperson, after consulting with the secretariat, suggested referring explicitly to the ILO Development Cooperation Strategy 2020–25 in the text.
453. The Worker Vice-Chairperson said that as the text now read “Strengthen”, rather than “Establish”, making it clear that something that already existed was being strengthened, it was not necessary to refer directly to the 2020–25 Strategy.

454. The Working Group adopted the section of the building blocks on development cooperation as follows:

Development cooperation

1. Strengthen ILO coordination for development cooperation, including the One ILO approach, using supply chains as an entry point to address constituents' needs in Decent Work Country Programmes (DWCP), including with respect to priority sectors, and focusing on:
 - (i) root causes of decent work deficits, including supporting good governance and the transition to formality;
 - (ii) all tiers of supply chains, including Small and Medium Sized Enterprises (SME), and relationships between buyers and suppliers;
 - (iii) the added value of a sectoral approach to address decent work deficits in specific sectors;
 - (iv) opportunities to expand South-South and triangular development cooperation;
 - (v) collective action, and the State duty to protect and the corporate responsibility to respect human rights as outlined in the United Nations Guiding Principles on Business and Human Rights (UNGP) and the MNE Declaration;
 - strengthening the governance capacity of public institutions;
 - building the capacity of the social partners; and
 - supporting enterprise and constituent engagement to promote decent work in supply chains;
 - (vi) coherent resource mobilization in support of ILO coordination for development cooperation, including the One ILO approach, with the full involvement of the social partners and in line with the constituents' needs and priorities and decent work country programmes.

Policy coherence

455. The Chairperson invited the Working Group to turn to the section on policy coherence.

456. The Office draft of the section on policy coherence read as follows:

Policy coherence

1. Actively engage with multilateral, international financial, and other organizations on decent work in supply chains.
2. Offer guidance on ILO tools and instruments to third party enterprises (audit firms, consultants, multistakeholder initiatives) engaged in due diligence processes.
3. Support ILO Members regarding labour provisions in trade agreements.

457. The Worker Vice-Chairperson noted that paragraph 2 as proposed by the Office was awkward, as there were no ILO instruments addressing audit firms, consultants, and multistakeholder initiatives engaged in due diligence processes. Paragraph 2 should be deleted and replaced by: "Support Member States, social partners, enterprises and other relevant third parties with human and labour rights due diligence processes in supply chains, including developing tools and instruments for this purpose". Another, more specific proposal regarding audit firms and other due diligence methodologies was pending under point 3.A.1 in the section on international labour standards.

458. The Employer Vice-Chairperson proposed adding the word "relevant" before "organizations" in paragraph 1. She supported the Workers' proposal to delete paragraph 2 but could not accept the proposed new draft in its entirety.

- 459.** The Government spokesperson proposed adding after the word “with” in paragraph 1, “and achieve a leading role among”; and to add “including within the international trade architecture” at the end of the sentence. There had to be a linkage to trade-related issues. A new paragraph should be inserted after paragraph 1, as follows: “Increase transparency in social auditing and certification in global supply chains”. In paragraph 4 (formerly paragraph 3), replace “regarding” by “in strengthening”. Add a new paragraph 5, to read: “Fair and rules-based international trade that respects labour rights, promotes fair wages and working conditions, and value addition along global supply chains can be a catalyst for economic growth and development and can contribute to reducing income inequality between countries”. He supported the new paragraph proposed by the Workers.
- 460.** The Worker Vice-Chairperson supported the Government spokesperson’s addition of “and achieve a leading role among” and “including within the international trade architecture” in paragraph 1, and the new paragraph 5. The group could accept the Employers’ addition of “relevant” organizations but questioned which organizations those were supposed to be. Paragraphs 2 and 3 could be merged, while placing the word “global” in paragraph 2 in brackets pending adoption of the preamble, since the Employers would not agree to it. The new paragraph would read as follows:
- Support Member States, social partners, enterprises and other relevant third parties with human and labour rights due diligence processes in supply chains, including developing tools and instruments for this purpose. Among others on increasing transparency in social auditing and certification of auditors in global supply chains.
- 461.** The Employer Vice-Chairperson pointed out that it was not the ILO’s mandate to “achieve a leading role among [...] international financial organizations”, so her group could not support that Government group amendment to paragraph 1. “relevant” international organizations might include organizations such as the International Civil Aviation Organization (ICAO). The international trade architecture was the domain of the WTO, and the ILO did not feature within it. She did not support the new paragraph introduced by the Workers, though concurred with the deletion of the original paragraph 2. “Strengthening” did not fit in paragraph 4: the original idea had been to provide support in understanding labour provisions, for example through a new helpdesk. The text of paragraph 4 should remain unchanged. The Employers could not accept the new paragraph 5 proposed by Governments.
- 462.** The Government representative of Sweden pointed out that the text in new paragraph 5 came from the ILO resolution on Inequalities and the World of Work, which had been agreed by all constituents.
- 463.** The Government representative of China asked whether the sense of paragraph 3 was that the ILO or Member States would undertake development of tools and instruments for human and labour rights due diligence. If it meant that Member States would undertake such development, he could support the text. He strongly supported paragraph 2 on transparency in social auditing.
- 464.** The Government representative of the United Kingdom noted in respect of the reference to international trade architecture in paragraph 1, that the ILO was already engaging more closely with UNCTAD. The word “those” could be inserted between “including” and “within” to increase clarity.
- 465.** The Government representative of Canada said that the ILO should play a leading role in supply chains, and thus supported paragraph 1. Both the Government group and to an extent the Employers had upheld that idea, though she could understand the Employers’ reticence about the ILO playing a leading role among financial institutions. She also supported “strengthening” in paragraph 4. Governments wanted to know how to make labour provisions more effective.

- 466.** The Government representative of Bangladesh said that the text of paragraph 5 had already been agreed by all constituents. It required no debate. Should it not be included in the building blocks, the Working Group would have failed to address the concerns of developing countries.
- 467.** The Government representative of Mexico said it was important that the building blocks included text highlighting the linkage between trade and labour. He supported the comments and suggestions made by the Governments of Canada and the United Kingdom. Imbalances in global trade, including environmental and labour issues, were covered in trade agreements. The ILO should facilitate dialogue and cooperation in trade agreement negotiations.
- 468.** The Government representative of the United States said his Government strongly supported increased transparency in social auditing and therefore supported paragraph 2. The wording “increase transparency” in that paragraph could be replaced by “promote transparency”. In paragraph 4, the words “development and implementation” should be included before “labour provisions in trade agreements”. In paragraph 5 insert “Promote” before “[f]air and rules-based international trade”.
- 469.** The Worker Vice-Chairperson observed that the 2016 Conference conclusions said that the Organization should “Provide leadership and use the ILO’s convening power and unique added value to drive policy coherence among all multilateral initiatives and processes related to decent work in global supply chains”. The intent of the Government group’s amendment was similar, and those conclusions should not be overruled. There should be efforts to at least use similar language. The Workers supported the proposal by the United States to replace “increase transparency” by “promote transparency” in paragraph 2 and withdrew their proposal to merge paragraphs 2 and 3, which had only been an attempt at concision. The group supported the Government addition in paragraph 4 and supported the Government of Bangladesh in respect of paragraph 5. The most salient decent work deficits were in developing countries, which since the 19th century had been operating as the world’s factory. The concerns of those countries must be covered in the building blocks.
- 470.** The Government representative of Senegal supported the United States amendment of “increase” to “promote”.
- 471.** The Employer Vice-Chairperson said that the words of the ILO Centenary Declaration should be borne in mind when considering the role the ILO should play: “On the basis of its constitutional mandate, the ILO must take an important role in the multilateral system, by reinforcing its cooperation and developing institutional arrangements with other organizations to promote policy coherence in pursuit of its human-centred approach to the future of work, recognizing the strong, complex and crucial links between social, trade, financial, economic and environmental policies.” References to existing texts were important as they supported policy coherence. The Employers could not support the amendments proposed in paragraphs 2 and 3 and preferred the original text of the paragraph 4. With great reluctance and in a spirit of compromise, the group could accept paragraph 5. Given that the focus was on the ILO’s role in respect of decent work, the group could agree to paragraph 1, but it did not support the amendments proposed in paragraph 2, and maintained firm opposition to paragraph 3, as language in the Means of action section already captured the issue of support for due diligence. Moreover, the action of promoting transparency in social auditing was completely outside the scope of the ILO and therefore paragraph 2 as a whole did not meet with the Employers’ approval.
- 472.** The Worker Vice-Chairperson did not agree that transparency and certification in global supply chains fell outside the scope of ILO action. Some Governments, including the Government of China, had recognized the importance of taking action on labour inspection and labour administration, and in respect of social auditing, especially where a cross-border dimension was

included. She asked the Employers' group to clarify where these subjects had been covered in the text, and why it was inappropriate to address them here. Alternative wording could be found for paragraph 2.

- 473.** The Government spokesperson withdrew his group's amendment to paragraph 4 to return to the original text proposed by the Office, in the spirit of compromise.
- 474.** The Worker Vice-Chairperson proposed an alternative to paragraph 2 of the present section, by adding a new paragraph 8 under 3.A.1, Means of action to ensure decent work in supply chains - International labour standards, to read: "develop instruments to address challenges in supply chains, including on accountability and access to remedy, public procurement, labour inspection and social auditing." The word "instruments" had been chosen to keep the scope general. These were very important matters and should be covered in the building blocks.
- 475.** The Employer Vice-Chairperson said her group could not support this new text either in form or substance, placed before the meeting at a late hour and going back on agreed language.
- 476.** The Chairperson said that her notes indicated that the Workers' group would return to the discussion of this issue, which had not been agreed.
- 477.** The Employer Vice-Chairperson stated that if the issue was not supported earlier, it would not be supported now.
- 478.** The Worker Vice-Chairperson said that her group's intention to return to this specific issue had been clearly stated when withdrawing certain amendments under Part 3.1 of the building blocks (see paragraph 229). The proposed text had been shared with the Government and Employers' group the previous day.
- 479.** The Government representative of the Philippines proposed reintroducing a paragraph (ii) under the part on the MNE Declaration, although the decision had been taken earlier to retain the original language of that part of the text. The proposed text read as follows: "facilitating dialogues and cooperation between home and host countries and multinational enterprises, to assist developing countries in implementing international labour standards to ensure decent work in supply chains, in line with the MNE Declaration". That wording would help to improve the way the developing world complied with this obligation.
- 480.** The Worker Vice-Chairperson said that this proposal was different from the wording shared with the groups earlier, and while she supported the proposal, her group needed time to study the text.
- 481.** The Employer Vice-Chairperson supported the proposal by the Government representative of the Philippines. Original paragraph (ii) could be amended to stop after "supporting company-union dialogue" to avoid repeating "between home and host country" in the paragraphs.

Preamble

- 482.** The Chairperson invited the Government group to present its proposal for preambular paragraphs.
- 483.** The preambular paragraphs proposed by the Government group read as follows:

Preamble

1. This document is the result of the discussions that followed the Tripartite Working Group on options to ensure decent work in supply chains. Following the decision of the Governing Body at its 341st Session, the aim of this discussion was to develop, with the assistance of the Office, the building blocks for a comprehensive strategy on achieving decent work in supply chains.

2. The Tripartite Working Group took into account in its discussions the Office's "Gap analysis of ILO normative and non-normative measures to ensure decent work in supply chains".
3. The following building blocks consist of four parts: the first reaffirms the ILO mandate, the second deals with the ILO's commitments to action, the third sets out the means of action to ensure decent work in supply chains, and the fourth part ensures the sustainability of the strategy.

- 484.** The Government representative of the United Kingdom explained that the proposal had been put together by representatives of the three groups. It contained three elements: the first outlined the context for their discussion, the second related to the gap analysis and the third explained the content of the text.
- 485.** The Government representative of Argentina said that while she supported the draft preamble, it should have retained the part referring to COVID-19 which had impacted heavily on supply chains. It should also have included the following subjects: the situation of women, work in a relationship of dependence, work in the informal economy and the social economy, forced labour and child labour.
- 486.** The Government representative of Bangladesh said he would have wished to capture some of the points raised in the first version of the preamble (see paragraph 387). The text would be improved by adding the sentence: "While developing the text of the strategy, the Office will take into account the elements in the general statements of the tripartite partners on the three discussion points".
- 487.** The Chairperson stated that those positions would be clearly stated in the report of the meeting.
- 488.** The Government representative of Argentina suggested adding a reference to COVID-19 to the preamble.
- 489.** The Government representative of Senegal supported the wording of the preamble, which was concise and synthetic. However, it was regrettable that it did not include the elements that emerged from the analysis of the decent work deficits, which would have allowed readers to understand the genesis of the building blocks. Five or six issues, such as COVID-19 and child labour, could have been summarized to provide an overview of the Working Group's thinking. Bangladesh's proposal would be better integrated in the second paragraph of the preamble, rather than at the end.
- 490.** The Government spokesperson said that extensive consultations had been undertaken, and the language proposed had consensus backing. The report would contain all the elements to which colleagues had referred. It was time to conclude this part of the discussions and move on.
- 491.** The Government representative of China fully supported the proposed preamble. The proposal made by the Government representative of Bangladesh had merit but should not be placed in the preamble. Part of it could be included in the chapeau of Part 2: Commitment to action, by redrafting the chapeau as follows: "A shared commitment, taking into account the views of the tripartite constituents, to:".
- 492.** The Government representative of Argentina again insisted on the importance of a reference to COVID-19. If that were not included, it would be better to leave the proposed draft untouched.
- 493.** The Employer Vice-Chairperson supported the first three paragraphs as drafted. Discussion should not be reopened on a text that had been agreed by the Government group. Additional items that were not covered could be reflected in the report.
- 494.** The Worker Vice-Chairperson said that her group felt severely frustrated. The preamble was supposed to act as the foundation of the building blocks and should be more substantive. The Government group shared the Workers' frustration and had commented that the Office draft did

not provide the required foundation. The current text was an attempt to find common ground but it was very weak. After the many instruments adopted at international level, and the conclusions of several Expert Meetings on connected issues, it ought to be possible to recognize that there was a state obligation to protect and a business obligation to respect human rights and apply human rights due diligence, and that there was a need for access to remedy. The Office report had exposed the issues related to the multi-employer, multi jurisdiction, cross-border nature of supply chains. Those challenges should have been recognized and addressed in the preamble, as the common ground for the work of the meeting. It was also regrettable that no agreement could be found on referring explicitly to COVID-19, or to the struggle of developing countries in addressing these issues. The failure to establish common ground in the preamble must feature clearly in the report of the meeting. There had been numerous issues that the Workers had been unable to keep in the building blocks, including much in relation to the MNE Declaration, a part of the building blocks that the group considered seriously deficient. Although unhappy with the non-substantive language of the preamble, her group would support the text as presented by the Government group, without additions. It was important for the Working Group to move towards an outcome, and that appeared to be the price.

- 495.** The Chairperson confirmed that the discussions of the Working Group would be faithfully recorded in the report of the meeting.
- 496.** The Government representative of Bangladesh withdrew his proposed amendment to the preamble.
- 497.** The Working Group adopted the three preambular paragraphs as presented by the Government Group (paragraph 481).

Part 1: Reaffirming the mandate

- 498.** The Chairperson invited the Working Group to turn to Part 1: Reaffirming the mandate.
- 499.** The original Office draft of Part 1: Reaffirming the mandate read as follows:

Part 1: Reaffirming the mandate

- Reaffirming the mandate of the ILC 2016 resolution, the Conclusions of the meetings of experts on cross-border social dialogue and on export processing zones and building on the lessons learned from the programme of action adopted by the Governing Body.
 - Responding to the evolution of the world of work, the International Labour Conference has adopted the Centenary Declaration and a number of important conclusions with relevance to ensuring decent work in supply chains and Member States have taken further initiatives at national or regional levels.
 - The unique role of the ILO with its tripartite structure and its culture of social dialogue to guide a globally relevant approach to enable its constituents to pursue decent work in supply chains, taking into account national context.
- 500.** The Worker Vice-Chairperson said that her group wanted to stress that the mandate was that of the ILO as a whole. In the first bullet, the group wished to add “and building on” after “reaffirming”; to delete “the mandate of”; after “2016” add “conclusions and”, and after “Export Processing Zones and”, delete the word “building”. On the second bullet point, replace “national or regional levels” by “national, regional and international levels”. On the third bullet, replace “culture of social dialogue” by “normative mandate”. If that last amendment were not included, the building blocks would contain no reference to the unique normative mandate of the ILO.

- 501.** The Employer Vice-Chairperson wished to amend the title of Part 1 to read: Reaffirming the mandate of the ILO on promoting decent work in supply chains". The Employers could not accept the amendments proposed by the Workers on the first bullet. On the second bullet, delete the last part of the sentence, starting from "and Member States". On the third bullet, the Employers preferred the original text to the version amended by the Workers.
- 502.** The Worker Vice-Chairperson said that it was more appropriate to refer to both the 2016 Conference conclusions and resolution. The full title of the instrument should be added by inserting the words "concerning decent work in global supply chains" after "resolution".
- 503.** The Government representative of Sweden, speaking on behalf of the EU and its Member States, suggested sub-amending the Employers' amendment to the title by replacing the word "promoting" by "achieving". He supported all the Workers' amendments and did not agree with the Employers' deletion of wording from the second bullet. Those words were simply stating a fact.
- 504.** The Government representatives of Canada and of South Africa endorsed the views of the Government representative of Sweden.
- 505.** The Government representative of Bangladesh preferred "promoting" in the title, instead of "achieving", as proposed by the Employers.
- 506.** The Employer Vice-Chairperson suggested the use of the verb "promoting" in the title was more appropriate given the ILO mandate to promote. "Achieving was more to do with Member States' actions. The first bullet could be simplified by referring only to "conclusions" and including their correct title. The Employers could support deletion of the word "building" before "on lessons learned" but did not support the insertion of "and building on" following "reaffirming. Her group did not agree to the inclusion of "normative mandate" in the third bullet point.
- 507.** The Chairperson informed the Working Group that the correct title of the 2016 Conference conclusions was "resolution and conclusions concerning decent work in global supply chains. The groups agreed to use that title.
- 508.** The Worker Vice-Chairperson was surprised that while the title of Part 3 included the word "mandate", the text below was to make no mention of that mandate. The Workers group would not accept a text that did not include a reference to the ILO's constitutional normative mandate. Regarding the title in its short, unamended version, her group supported "Achieving", which did not imply that the ILO would do that on its own. The word would not impede the functioning of the Organization in any way. On the second bullet, the words that the Employers wished to delete were simply stating the fact that Member States had taken initiatives. If helpful, the text could indicate that social partners had also taken initiatives, as the sentence did not say whether the initiatives were normative or not.
- 509.** The Government spokesperson suggested adding the words "the mandate of the ILO" in the first bullet, after "Reaffirming". It was the mandate of the ILO that was being reaffirmed, not that of the International Labour Conference.
- 510.** The Employer Vice-Chairperson said that the Workers' proposal in the third bullet 3 under Part 1 "The unique role of the ILO with its tripartite structure and its normative mandate" was limitative, given that the ILO's mandate went far beyond standard-setting.
- 511.** The Government representative of Senegal said that the title should include "promoting" decent work, which was the mandate of the ILO. It was for Member States to "achieve" decent work.

- 512.** The Government representative of Sweden, speaking on behalf of the EU and its Member States, urged the Employers to accept the wording in the second bullet indicating that Member States had taken initiatives. The wording could include the social partners, should that be helpful.
- 513.** The Worker Vice-Chairperson said that the title should read either “reaffirming” or “realizing the mandate” to be useful.
- 514.** The Employer Vice-Chairperson said that “realizing” had not been used by the Governing Body in its decision.
- 515.** The Worker Vice-Chairperson said that both “achieving” and “realizing” came from the 2016 Conference conclusions.
- 516.** The Government representative of Cameroon said that “promoting” should be used, to encourage Member States to pursue the trend to take legislative measures.
- 517.** The Government representative of Sweden, speaking on behalf of the EU and its Member States, suggested retaining “Reaffirming the mandate”.
- 518.** The Employer Vice-Chairperson agreed to withdraw her amendment to the title. In the first bullet, the group did not accept “and building on”. In the second bullet, a full stop should be inserted after “work in supply chains”. In the third bullet, “The unique role of the ILO with its tripartite structure and its normative mandate” could be included provided “and non-normative mandate and its programmes and policies to promote decent work,” was inserted after “normative mandate”, to reflect the many activities undertaken by the ILO.
- 519.** The Working Group agreed to keep the title as drafted: “Reaffirming the Mandate”.
- 520.** The Worker Vice-Chairperson noted that the title was ambiguous without a reference defining the mandate. In the first bullet, “the mandate of the ILO” should be deleted. The Working Group was not called on to reaffirm the ILO’s entire mandate. It was not clear why the Employers could not support “building on”. In the third bullet, it should be noted that the gap analysis made it clear that the ILO’s non-normative activities were derived from the Organization’s normative mandate. The ILO did not have a non-normative mandate.
- 521.** The Government spokesperson noted that it was unclear to which mandate the first bullet was referring. Once that was clarified, the Government group could withdraw its amended wording “the mandate of the ILO”.
- 522.** The Government representative of Senegal stated that he did not support the Employers’ addition of “non-normative mandate” in the third bullet, as the added value of the ILO came from its normative mandate and its tripartite structure.
- 523.** The Worker Vice-Chairperson agreed to retain the original wording “Reaffirming the mandate of the 2016 International Labour Conference resolution and conclusions concerning decent work in global supply chains” and thus to delete the Government group’s amendment “of the ILO”, as well as her group’s “and building on”.
- 524.** The Government representative of South Africa agreed that his group’s amendment “of the ILO” could be deleted.
- 525.** The Employer Vice-Chairperson maintained her group’s opposition to the amended third bullet and preferred the Office text. The gap analysis referred clearly to “non-normative functions” of the ILO and her group wished that to be reflected in the building blocks.
- 526.** The Worker Vice-Chairperson emphasized that the gap analysis referred to non-normative functions, not to a non-normative mandate. The 2016 resolution consisted of three lines,

introducing the more important conclusions. The Employers' group was spending too much time on aspects that were outside the Working Group's scope. If their group really wished to challenge whether the ILO had a normative function, it should do so in the Governing Body.

- 527.** The Chairperson suggested using "normative mandate and non-normative functions".
- 528.** The Employer Vice-Chairperson regretted that her group's comments were being mischaracterized. She had never tried to argue that the ILO did not have a normative mandate, simply that its mandate went beyond the purely normative. The group was trying to work with the word "normative" that had been added by the Workers.
- 529.** The Worker Vice-Chairperson, referring to the original text, said that the uniqueness of the ILO resided in its tripartite character and in its normative function. There was nothing unique about non-normative functions, and her group could not accept that the normative mandate of the ILO and its non-normative activities should be placed at the same level. She could accept the Employers' addition of "non-normative programmes and policies to promote decent work", but not "normative and non-normative mandate".
- 530.** The Government representative of Cameroon suggested using wording to reflect that the ILO had a principal normative mandate, and a secondary non-normative mandate.
- 531.** The Government representative of Sweden suggested "its normative mandate and accompanied by its non-normative functions".
- 532.** The Employer Vice-Chairperson stated that the ILO was unique because of its tripartite structure and not because it issued legally binding standards. Her group was not in a position to agree to a stand-alone normative mandate.
- 533.** The Worker Vice-Chairperson challenged the Employers' group to find another institution that was tripartite and had a normative mandate.

Part 2: Commitment to action

- 534.** The Chairperson, noting that progress was difficult on Part 1 of the building blocks, invited the Working Group to turn its attention to Part 2: Commitment to action.
- 535.** The original Office draft of Part 2: Commitment to action read as follows:

Part 2: Commitment to action

- A shared commitment to:
 - equip the ILO to take a much-needed leading role in ensuring decent work in supply chains by providing guidance and support to Member States;
 - use all available ILO means of action to ensure decent work in supply chains, recognizing the shared responsibilities of the ILO constituents and the imperative of concerted ILO action in this regard; and
 - actively pursue social dialogue and promote full respect for freedom of association and collective bargaining in supply chains.
- 536.** The Worker Vice-Chairperson proposed inserting ", taking into account the different and complementary roles and responsibilities of constituents," in between "A shared commitment" and "to" in the chapeau. At the end of the first bullet, add the words "and tripartite constituents". In the second bullet, the Workers had intended to propose inserting "normative and non-normative" between the words "ILO" and "means", but in light of the discussion on Part 1, they would refrain from doing so. In the second bullet, the wording "the shared responsibilities of the

ILO constituents and” should be struck out, as this had now been more appropriately addressed in the chapeau.

- 537.** The Employer Vice-Chairperson proposed the deletion of “much-needed” in the first bullet and, in the third bullet, adding “observance of the fundamental principles and rights at work, including” before “full respect for freedom of association”, as well as “the realization of the right to” before “collective bargaining in supply chains”.
- 538.** The Worker Vice-Chairperson said that the Employers’ proposals would be better served by using official ILO language, as follows: “the effective recognition of the right to collective bargaining” and “promote, respect and realize the fundamental principles and rights at work”. Her group could accept the deletion of “much-needed”.
- 539.** The Employer Vice-Chairperson agreed with the Workers’ proposed amendments to the chapeau and to the three bullets.
- 540.** The Working Group adopted the text to Part 2: Commitment to action as amended, as follows:

Part 2: Commitment to action

- A shared commitment, taking into account the different and complementary roles and responsibilities of constituents, to:
 - equip the ILO to take a leading role in ensuring decent work in supply chains by providing guidance and support to Member States and tripartite constituents;
 - use all available ILO means of action to ensure decent work in supply chains, recognizing the imperative of concerted ILO action in this regard; and
 - actively pursue social dialogue and promote, respect and realize the fundamental principles and rights at work, including full respect for freedom of association and effective recognition of the right to collective bargaining in supply chains.

Part 3(B): MNE Declaration

- 541.** The Chairperson invited the Working Group to return to the part on the MNE Declaration, asking whether the social partners had been able to consider the proposal put forward by the Government representative of the Philippines to insert a new paragraph (ii) as follows: “facilitating dialogues and cooperation between home and host countries and multinational enterprises, to assist developing countries in implementing international labour standards to ensure decent work in supply chains, in line with the MNE Declaration”.
- 542.** The Employer Vice-Chairperson proposed the deletion of “and dialogue between home and host country governments” in paragraph (ii), as there was repetitive usage of the language in paragraph (iii) below. She requested guidance from the Office with regard to the appropriateness of the text.
- 543.** The Worker Vice-Chairperson agreed to the text as suggested by the government of the Philippines without the Employers’ deletion.
- 544.** The secretariat confirmed that the MNE Declaration did indeed envisage the possibility of “dialogue between home and host country governments”.
- 545.** The Government spokesperson supported the proposals made by the social partners.

- 546.** The Working Group agreed to the insertion of a new paragraph (ii) in the text of the section on the MNE Declaration that had earlier been adopted as drafted by the Office. The text of the new paragraph (ii) read as follows:

facilitating dialogues and cooperation between home and host countries of MNEs to assist developing countries in implementing international labour standards to ensure decent work in supply chains in line with the MNE Declaration;

Part 4: Ensuring sustainability of the strategy

- 547.** The Chairperson invited the Working Group to turn its attention to Part 4: Ensuring sustainability of the strategy.

- 548.** The original Office text of Part 4: Ensuring sustainability of the strategy, read as follows:

Part 4: Ensuring sustainability of the strategy

1. Tripartite commitment to mobilize the necessary resources to ensure that the ILO is equipped to provide Member States and employers' and workers' organizations with the necessary guidance, tools and support.
2. Regular evaluation of the implementation of the strategy to assess its impact, procedural arrangements, and measure the outcomes of interventions.

- 549.** The Employer Vice-Chairperson proposed the insertion of new paragraphs 3 and 4, to read: "3. A communication strategy to better communicate the ILO's engagement on decent work in supply chains and how it links to the ILO's core means of action" and "4. Strengthen coordination through the establishment of a dedicated cross-department team to coordinate and lead the ILO's work and research on supply chains - in the field as well as at headquarters".

- 550.** The Worker Vice-Chairperson proposed the replacement of the words in the paragraph 1 "guidance, tools and support" by "support and assistance", given that these were building blocks, not a legal text. The group also proposed shortening paragraph 2 by replacing the words starting at "implementation" down to "interventions" by the phrase: "and impact assessment of the strategy". With regard to the new paragraph 3 proposed by the Employers, the Workers understood that the Office already had a communication strategy in place. That proposal should therefore be clarified. Should the text remain, the group would like to delete the words after "supply chains" since there had been no agreement in earlier discussions as to what the "ILO's core means of action" meant. Regarding the proposal for paragraph 4, the Workers did not support text that had implications for the internal organization of the Office, which the call to establish a "dedicated, cross-departmental team" would certainly involve.

- 551.** The Government representative of Sweden, speaking on behalf of the EU and its Member States, did not support the Workers' amendment "support and assistance" in paragraph 1 but did support the group's changes to paragraph 2. Sweden also supported the Employers' new paragraph 3, though agreeing that the paragraph should end after "supply chains". Regarding paragraph 4, while strengthening coordination was certainly positive, it was for the ILO Director-General to decide on how that was done.

- 552.** The Government representative of Canada endorsed the comments made by the Government representative of Sweden on behalf of the EU and its Member States.

- 553.** The Government representative of the United States proposed amending paragraph 3 to read: "Enhanced efforts to better communicate the ILO's engagement on decent work in supply chains" and deleting the rest of the paragraph. He agreed that paragraph 4 was too prescriptive in calling for a new cross-departmental team, although efforts to increase coordination were always welcome.

- 554.** The Government representative of Senegal said that the most important element of the paragraphs was “impact assessment” and supported the Workers’ amendment to that effect. Likewise, efforts to enhance coordination were important. However, aspects such as the communication strategy were not related to sustainability and could be placed elsewhere. Equally, the reference in paragraph 4 to research on global supply chains” was already covered in the part of the building blocks on Research, knowledge and practical tools.
- 555.** The Government representative of the Philippines endorsed the United States’ proposals for paragraph 3.
- 556.** The Government representative of China supported the Workers’ group proposals to amend paragraphs 1 and 2. For paragraph 3, the Government representative of the United States’ proposal to “Enhance communication” was more appropriate than establishing a “communication strategy”. In paragraph 4, given that enhanced coordination was crucial to the success of the strategy, the wording “Enhanced efforts to strengthen coordination in implementing the strategy” might suffice, and avoided referring to establishing a dedicated team.
- 557.** The Worker Vice-Chairperson supported the Government representative of the United States’ amendment to paragraph 3. Regarding paragraph 4, the Workers proposed simplifying the amendment by the Government representative of China, “Enhanced efforts to strengthen coordination in the ILO’s work and research on supply chains” to “Strengthened coordination in the ILO’s work and research on supply chains”. The sentence could perhaps end with the words “in the field as well as at headquarters.”
- 558.** The Employer Vice-Chairperson agreed with the Workers’ amendment to paragraph 1, as well as to “regular evaluation and impact assessment of the strategy”, which the group assumed covered its implementation, impact, procedural arrangements and measured outcomes and interventions. Paragraph 3 as amended and ending after “supply chains” also had the support of the Employers, as did the last version of paragraph 4 proposed by the Workers. “Strengthened coordination in the ILO’s work and research on supply chains – in the field as well as at headquarters.”
- 559.** The Government representative of Senegal asked whether there was need to include coordination of research in this part of the text given that it was already included under Research, knowledge, and practical tools.
- 560.** The Employer Vice-Chairperson said that as this part covered the sustainability of the strategy, a reference to coordination would send a positive signal indicating that not only was the strategy being put in place, but that it would continue to function and flourish over time.
- 561.** The Worker Vice-Chairperson proposed deleting “and research” from paragraph 4, to read “Strengthened coordination in the ILO’s work on supply chains - in the field as well as at headquarters.” The term “ILO’s work” already included research.
- 562.** The Employer Vice-Chairperson said that it was important for her group to maintain a reference to research in paragraph 4.
- 563.** The Government representative of Senegal agreed to withdraw his comment.
- 564.** The Working Group adopted Part 4: Ensuring sustainability of the strategy as amended, as follows:
- Ensuring sustainability of the strategy*
1. Tripartite commitment to mobilize the necessary resources to ensure that the ILO is equipped to provide Member States and employers’ and workers’ organizations with the necessary support and assistance.
 2. Regular evaluation and impact assessment of the strategy.

3. Enhanced efforts to better communicate the ILO's engagement on decent work in supply chains.
4. Strengthen coordination in the ILO's work and research on supply chains – in the field as well as at headquarters.

Part 3(C): Enabling rights

- 565.** The Chairperson invited the Working Group to return to the section on Enabling rights.
- 566.** The Worker Vice-Chairperson said that her group had accepted the Employers' language for the first part of the chapeau: "Promote measures to ensure that all workers and employers enjoy the fundamental principles and rights at work, as well as the principles embodied in the UN Guiding Principles and the MNE Declaration", however a reference to following up on the conclusions of the Expert Meeting on Cross-border Social Dialogue was still missing. If language had been included elsewhere in the text that referred to "building on" the results of the Expert Meetings, the Workers could accept the deletion of the reference to them in the chapeau to Enabling rights. The repetition of "social dialogue" in "recognizing that social dialogue is at the heart of the ILO's mandate, and that social dialogue, including cross-border social dialogue is an essential aspect of this mandate" should be resolved. Her group could accept amendment of "this" to "its" mandate, but the precise wording from the conclusions of the Expert Meeting on Cross-border Social Dialogue should be used. She acknowledged that wording that placed social dialogue simultaneously "at the heart of the ILO's mandate" and as "an essential aspect" of the ILO's mandate was repetitive and ungainly. Regarding paragraph (i), she supported the amendment proposed by the Government representative of Sweden to replace "ensure that all workers and employers enjoy freedom of association and the effective recognition of the right to collective bargaining in supply chains" by "ensure the full enjoyment of freedom of association and the effective recognition of the right to collective bargaining in supply chains", and asked if the Employers supported the subsequent wording proposed by the Workers, "without barriers in law or in practice". The proposal by the Government representative of China regarding EPZs was incorporated into the Workers' group's suggestion and could be deleted. She regretted that paragraph (ii), which spoke of support to employers' and workers' organizations had not met with the Employers' support.
- 567.** The Employer Vice-Chairperson said it was important for her group to maintain the notion, included in the conclusions of the Expert Meeting on Cross-border Social Dialogue that social dialogue had many different aspects, of which one was cross-border social dialogue. In an effort to move towards the Workers' group, she proposed the following wording for the chapeau: "Promote measures to ensure that all workers and employers enjoy the fundamental principles and rights at work, as well as the principles embodied in the UN Guiding Principles and the MNE Declaration, recognizing that social dialogue is at the heart of the ILO's mandate, and that cross-border social dialogue is an essential aspect of it." Regarding paragraph (i), her group could move closer to the Government group proposal in the following wording: "ensure the full enjoyment of freedom of association and the effective recognition of the right to collective bargaining in supply chains, taking into account conclusions of the 2017 Experts Meeting on decent work in Export Processing Zones and the 2019 conclusions of the Experts Meeting on cross-border social dialogue". Her group maintained its opposition to paragraph (ii).
- 568.** The Worker Vice-Chairperson accepted the deletion of the wording "while preparing for the future". She asked the Office whether the fundamental principles and rights at work applied to workers and employers in a similar manner. Freedom of association and collective bargaining were core labour standards that were relevant to employers and workers, but non-discrimination

of workers, freedom from child labour and forced labour were not rights which employers could “enjoy”.

- 569.** The Director of NORMES acknowledged that while employers enjoyed the rights relating to freedom of association and collective bargaining, the significance of the right to be free from forced labour or from child labour and possibly also from discrimination in employment seemed less straightforward. Employers had to ensure that workers enjoyed those rights.
- 570.** The Employer Vice-Chairperson said she could not accept the exclusion of employers from the fundamental principles and rights at work.
- 571.** The Worker Vice-Chairperson said that she denied no rights to employers when they were natural persons. In that case, they would enjoy far-ranging protection, including under Convention No. 190. She suggested replacing “fundamental principles and rights at work” by “freedom of association and the effective recognition of collective bargaining” in the chapeau, to prevent any confusion.
- 572.** The Employer Vice-Chairperson said that if that proposal to delete was motivated by a wish to avoid affirming that employers had full enjoyment of the fundamental principles and rights at work, then it was inappropriate.
- 573.** The Government representative of Sweden suggested referring only to the enjoyment of the fundamental principles and rights at work in the chapeau and to the workers and employers in paragraph (i).
- 574.** The Worker Vice-Chairperson said that that was far removed from their intention. It was fine language on core labour standards, but it failed to address the very real barriers to workers in supply chains enjoyment of freedom of association and collective bargaining, especially those employed in EPZs. If “fundamental principles and rights at work” were replaced by “freedom of association and the effective recognition of collective bargaining” in the chapeau, the Working Group could refer to the real issues mentioned in the Expert Meetings’ conclusions, which highlighted the barriers that needed to be addressed. Paragraph (i) could read: “ensure that all existing barriers in law or in practice do not hinder the full enjoyment of freedom of association and the effective recognition of the right to collective bargaining throughout all tiers of supply chains, including in EPZs”.
- 575.** The Employer Vice-Chairperson suggested rephrasing the chapeau as follows: “Promote the respect and realization of the fundamental principles and rights at work, as well as the principles embodied in the UN Guiding Principles and the MNE Declaration, recognizing that freedom of association and collective bargaining are enabling rights and recognizing that social dialogue is at the heart of the ILO’s mandate and that cross-border social dialogue is an essential aspect of it.” She would not support including anything else.
- 576.** The Government representative of China pointed out that the current proposal did not include his earlier suggestion. He proposed inclusion of the following wording for paragraph (i): “collective bargaining throughout all tiers of supply chains, including supporting the social partners to engage in industrial relations and a broader social dialogue to reduce fundamental rights and decent work challenges and deficits, both in and out of EPZs”.
- 577.** The Employer Vice-Chairperson clarified that she no longer supported the inclusion of paragraph (i).
- 578.** The Worker Vice-Chairperson regretted the impasse, but put forward a last proposal, which added the text suggested by the Government representative of China to the chapeau, as proposed by the Employers.

- 579.** The Government representative of China and the Employer Vice-Chairperson both supported the proposal.
- 580.** The Working Group adopted the text of the building blocks on Enabling rights as amended, as follows:

Enabling rights

Promote the respect and realization of the fundamental principles and rights at work, as well as the principles embodied in the UN Guiding Principles and the MNE Declaration, recognizing that freedom of association and collective bargaining are enabling rights and recognizing that social dialogue is at the heart of the ILO's mandate and that cross-border social dialogue is an essential aspect of it, and supporting social partners to engage in industrial relations and a broader social dialogue to reduce fundamental rights and decent work challenges and deficits, including in Export Processing Zones (EPZs).

Part 1: Reaffirming the mandate

- 581.** The Chairperson invited the Working Group to return to its discussion of Part 1: Reaffirming the mandate.
- 582.** The Employer Vice-Chairperson said that her group could support the Workers' amendments to paragraph 2 – to include “and social partners” after “Member States” and before “have taken further initiatives” and to add the international level to “at national, regional and international levels” expressed support for the Workers amendments to paragraph 2 which read: “and social partners” and “and international”.
- 583.** The Working Group adopted paragraph 2 of Reaffirming the mandate as amended, as follows:
- Responding to the evolution of the world of work, the International Labour Conference has adopted the Centenary Declaration and a number of important conclusions with relevance to ensuring decent work in supply chains and Member States and social partners have taken further initiatives at national, regional and international levels.
- 584.** The Worker Vice-Chairperson asked whether she understood correctly that the mandate being reaffirmed in paragraph 1 was that conferred by the 2016 Conference resolution and conclusions.
- 585.** The Employer Vice-Chairperson said that it was to that mandate that her group understood the paragraph to refer.
- 586.** The Worker Vice-Chairperson indicated that she found it strange that the title read “Reaffirming the mandate” while no mandate was explicitly reaffirmed by the subsequent text, though she agreed with the proposed text. She foresaw that questions would be raised as to which mandate was in question in future however.
- 587.** The Working Group adopted paragraph 1 of Reaffirming the mandate as amended as follows:
- Reaffirming the International Labour Conference (ILC) 2016 resolution and Conclusions concerning decent work in global supply chains, the Conclusions of the meetings of experts on Cross-border Social Dialogue and on Export Processing Zones and on the lessons learned from the programme of action adopted by the Governing Body.
- 588.** The Worker Vice-Chairperson noted, regarding paragraph 3, that certain amendments interfered with the grammar of the text.
- 589.** The Director of NORMES suggested the following wording “The unique role of the ILO with its tripartite structure, its normative mandate, accompanied by its non-normative functions and its programmes and policies to promote decent work equips the Organization to guide a globally

relevant approach to enable its constituents to pursue decent work in supply chains, taking into account national context.”

- 590.** The Government representative of the Philippines noted that for consistency, all three paragraphs should start with verbs. She proposed “Recognizing that the unique role [...] equips [...]”.
- 591.** The Employer Vice-Chairperson suggested the following wording, deleting the word “and” before “its normative mandate”: “Recognizing the unique role of the ILO with its tripartite structure, its normative mandate, accompanied by other functions such as its programmes, policies, research, and statistics to promote decent work equips the organization to guide a globally relevant approach to enable its constituents to pursue decent work in supply chains, taking into account national context”
- 592.** The Worker Vice-Chairperson said her group would prefer to retain “and” its normative mandate; delete “research and statistics” as those functions were already included under the ILO’s programmes and policies, and to invert the order of those two functions to read “policies and programmes”. That would strengthen the sentence and increase its concision.
- 593.** The Employer Vice-Chairperson said the Employers supported the inclusion of research and statistics as they provided the evidence base for guidance. To arrive at consensus however, she could agree to their deletion.
- 594.** The Working Group adopted paragraph 3 of Reaffirming the mandate as amended, as follows:
- Recognizing the unique role of the ILO with its tripartite structure, and its normative mandate, accompanied by other functions, such as its programmes and policies, to promote decent work, which equips the Organization to guide a globally relevant approach to enable its constituents to pursue decent work in supply chains, taking into account national context.

Part 3(F): Policy coherence

- 595.** The Chairperson invited the Working Group to return to the discussion of the policy coherence building blocks, where paragraphs 2 and 3 remained pending.
- 596.** The Employer Vice-Chairperson said Employers did not support the inclusion of paragraphs 2 and 3 in the policy coherence section and that the latter duplicated the former.
- 597.** The Worker Vice-Chairperson stressed that the amendment to the original text of paragraph 2 had been made to highlight the need for transparency in social auditing and certification in global supply chains. Paragraph 3 had been amended to make it more general. Given that many businesses were engaging with human rights due diligence processes, it would be useful for the ILO to concentrate efforts in that area.
- 598.** The Employer Vice-Chairperson said that most of the aspects contained in paragraphs 2 and 3 were covered elsewhere in the text, where the ILO had pledged to provide tools and guidance, and through the Helpdesk, for example.
- 599.** The Worker Vice-Chairperson asked if the Employer Vice-Chairperson could identify anything on social auditing and certification in the rest of the text, and to point to the duplication in paragraph 3.
- 600.** The Employer Vice-Chairperson replied that paragraph 3 replicated paragraph 6 under International labour standards, on “normative and non-normative measures and their possible impact to strengthen the State obligation to protect and the corporate responsibility to respect human rights”. That was dealing with due diligence. The Association of Professional Social Compliance Auditors (APSCA) was already doing certification of social audit firms. The Employers failed to see how the ILO could become involved in third party auditing and certification.

- 601.** The Worker Vice-Chairperson observed that paragraphs 2 and 3 were not repetitive. The two could be merged and rendered more policy-oriented to clarify that the ILO would not perform certification activities. More transparency was needed in social auditing and certification and for this, the language “recognizing the importance of transparency” could be helpful. Several governments had said there was a need for tools or guidelines in the area, so a reference to that would also be useful.
- 602.** The Government representative of China said it was clear that the ILO should not perform an auditing or certification function. He suggested including language on “promoting the principle of transparency”.
- 603.** The Government representative of Argentina proposed merging the paragraphs, as had the Workers, and to delete the last words “for this purpose”, stopping the paragraph after “tools and instruments”.
- 604.** The Government spokesperson proposed starting with “Support member States, social partners, enterprises and other relevant third parties with human and labour rights due diligence processes in supply chains, including promoting the principle of transparency in social auditing and certification”.
- 605.** The Employer Vice-Chairperson neither supported merging the two concepts, nor keeping them individually. The ILO should not insert itself into the business model of a private industry, nor should it seek to direct social auditing and certification schemes.
- 606.** The Worker Vice-Chairperson said the ILO had been engaged with private sector actors in many fields for over 100 years. The private firms employed by companies to vet their human rights due diligence processes were not providing adequate scrutiny. The ILO’s role was to set principles, values and standards, sometimes in binding form, in order for certification and auditing to follow certain minimum rules, standards and transparency. The point in this part of the text was that it would be useful for the ILO to engage with all these actors on human rights due diligence processes in supply chains. It was hard to understand the Employers’ reluctance to accept the proposed wording.
- 607.** The Employer Vice-Chairperson said that there was a lot of consensus and achievement already in the document, but that her group could not support these two paragraphs.
- 608.** The Worker Vice-Chairperson noted that the Workers and Governments had consistently said that this was an important issue, and she still did not understand the Employers’ arguments against the merged text.
- 609.** The Government representative of Slovenia, speaking on behalf of the EU and its Member States, asked the secretariat to clarify whether the concept of due diligence had already been covered anywhere in the text.
- 610.** The Employer Vice-Chairperson said that there were multiple references to the state duty to protect and the corporate responsibility to respect which, under the UN Guiding Principles, meant the corporate responsibility to operate with due diligence. The text also included the following wording: “Assess new normative and non-normative measures and their possible impact to strengthen the state obligation to protect and the corporate responsibility to respect human rights, in particular labour rights in all levels of supply chains”, as well as “Further develop options for initiatives that complement the body of international labour standards to take into account the changing world of work, the challenges of cross-border supply chains, implementation gaps, and national circumstances, whether through new normative measures, the revisions of existing measures, or supplementary guidelines and tools.” The draft building blocks provided for

enhancing an operating Helpdesk to assist companies as well as workers' and employers' organizations in human rights due diligence processes, in line with the UN Guiding Principles and the MNE Declaration and to provide information on the findings of ILO supervisory system and country data and information on decent work and supply chains.

611. The Government spokesperson asked whether it would be possible to raise issues on which the Working Group had failed to find consensus when the outcome of the Working Party was submitted to the Governing Body.
612. The Chairperson said that points of non-consensus would appear in the report and could be raised as part of the debate in the Governing Body.
613. The Government representative of Senegal proposed shortened wording as follows: "Support member States, social partners, enterprises and other relevant third parties with human and labour rights due diligence processes in supply chains, including promoting the principle of transparency, good governance and accountability", stopping the text at that point, without referring to certification and social auditing, which were included in good governance and accountability already.
614. The Employer Vice-Chairperson said that the only acceptable part of that text was the wording starting from "promoting".
615. The Government spokesperson was surprised that while the previous issue of non-consensus had been on social auditing and certification, it now centred on support to the social partners in relation to human and labour rights due diligence in supply chains processes. The Employers' gist was hard to grasp. The merged text should be reinstated, and the lack of consensus should be clearly signalled in the report to allow Member States to raise the matter during the Governing Body debate.
616. The Worker Vice-Chairperson agreed that the building blocks contained some language on helping companies, workers and employers with regard to human rights due diligence. However, there was no mention of transparency and social auditing and the importance of those elements in the context of policy coherence.
617. The Chairperson suggested going back to paragraph 2 and using the earlier wording provided by the Government group: "importance of promoting the principle of transparency, social auditing and certification in [global] supply chains".
618. The Employer Vice-Chairperson said that her group had already proposed solutions along those lines in providing the wording "support the principles of transparency, good governance and accountability in supply chains".
619. The Worker Vice-Chairperson said that the issue of concern was that of guaranteeing the credibility of the results of social auditing and certification. She proposed the following wording for a merge of the two paragraphs: "Recognize the importance of the principle of transparency in human rights due diligence processes". The Workers did not support including the wording "good governance and accountability".
620. The Employer Vice-Chairperson said that one of the many policy coherence levers available to the ILO was its provision of authoritative training and guidance through the Turin Centre. She proposed including an additional paragraph as follows: "Offer training for social auditors on ILO standards and policies, including fundamental principles and rights at work, to promote transparency and good governance."
621. The Worker Vice-Chairperson appreciated the Employers' search for solutions but pointed out that the proposal was an addition but not a replacement of the general principle of transparency in

social auditing and certification. Nor could the Turin Centre be expected to train all the world's social auditors. Training could be useful as additional support but did not answer the needs expressed by the Government and Workers' groups.

622. The Chairperson concluded that there was no agreement on the matter. The report should indicate clearly that the proposed content on the principle of transparency in social auditing and certification was removed from the building blocks due to a failure to find consensus.

623. The Employer Vice-Chairperson agreed with the Chairperson's assessment.

624. The Government spokesperson noted that the essential obstacle was an inability to find consensus on the question of transparency. He wished to return to the wording as initially submitted by the Government group but aligned with the Chairperson's proposal to remove the draft text, maintaining the possibility of reopening the discussion at the 346th Session of the Governing Body (October–November 2022).

625. The Government representative of the United States suggested an amended text of the merged paragraphs as follows:

Recognize the importance of the principle of transparency in human rights due diligence processes and offer training for social auditors on ILO standards and policies, including fundamental principles and rights at work.

626. The Worker Vice-Chairperson agreed to the United States' proposal.

627. The Employer Vice-Chairperson amended the United States' proposal by suggesting replacing the word "transparency" by the words "good governance", to read:

Recognize the importance of the principle of good governance in social auditing and offer training for social auditors on ILO standards and policies, including fundamental principles and rights at work.

628. The Worker Vice-Chairperson asked what was meant by "good governance in social auditing".

629. The Employer Vice-Chairperson explained that good governance in social auditing concerned ethical business practices and good governance in terms of knowledge procedures. For instance, in the United States APSCA, an organization or association composed of social auditors accredited by the same certification processes, had been developing standards to ensure consistent knowledge on issues related to social auditing. The certification standards included ILO fundamental principles and rights at work and all forced labour indicators. The aim was to professionalize social auditing and to standardize qualification for auditors.

630. The Government representative of China suggested adding the words "and accountability" to the United States' proposed text, as amended by the Employers, to be inserted after "good governance".

631. The Worker Vice-Chairperson queried why the Employers, given their vocal support for the UN Guiding Principles and the MNE Declaration, which were both guidelines on due diligence processes, would wish not to include "due diligence processes" in the text. The Employers also appeared to wish to remove the word "transparency" wherever it was proposed.

632. The Government representatives of Argentina and Bangladesh observing that the Working Group had been sitting for 11 hours, called for the Chairperson to rule that there was no agreement and to close proceedings unless a solution could be quickly found.

633. The Employer Vice-Chairperson supported the text with the addition made by the Government representative of China. If the Workers' group could not agree to this, the Employers' group agreed

that the report should reflect that the Working Group had been unable to reach consensus and the remaining issues would have to be raised in other settings.

- 634.** The Worker Vice-Chairperson reminded the Chairperson that when a majority agreed and a minority disagreed, the Chairperson should ask the group with the minority position whether they could accept the majority position before recording the division, which would be reflected in the report. It should be noted that a majority of those in the Working Group wanted useful building blocks to guide the ILO in formulating a strategy.
- 635.** The Chairperson said that she had made it clear that there was agreement between the Government group and the Workers' group, and that she saw no movement from the Employers' group. She had thus adhered to the ILO conduct procedures.
- 636.** The Government representative of Senegal observed that the proposals from the Government representative of the United States and the Employer Vice-Chairperson were virtually identical. Including the notions of transparency and due diligence should not be a problem for any group. Reference to due diligence principles should not be deleted, as it came directly from the UN Guiding Principles and implied that companies in due diligence processes should be transparent in relation to their respect of human and labour rights.
- 637.** The Employer Vice-Chairperson noted that other items were still open for discussion and that the Employers' group was interested in discussing them.
- 638.** The Worker Vice-Chairperson called for the discussion to be stopped. She fully agreed with the representative of Senegal and did not understand why the Employers' group could not support the proposal by the Government representative of the United States. It was unclear why the Employers were resisting use of the term "due diligence". The proposal by the Government representative of the United States was a last attempt at compromise. The Workers' group would not be able to accept the Employers' counterproposal. She thanked the Government representative of China for trying to propose another compromise but the Workers' group could not agree to that either.
- 639.** The Employer Vice-Chairperson stated that as a compromise, her group could accept the proposal by the Government representative of the United States but emphasized the Employers' disappointment that their group's proposal had not been considered acceptable.
- 640.** The Working Group adopted the part on policy coherence as amended as follows:

Policy coherence

1. Actively engage with and achieve a leading role among multilateral, international financial, and other relevant organizations on decent work in supply chains, including those within the international trade architecture.
 2. Recognize the importance of the principle of transparency in human rights due diligence processes and offer training for social auditors on ILO standards and policies, including fundamental principles and rights at work.
 3. Support ILO Members regarding labour provisions in trade agreements.
 4. Promote fair and rules-based international trade that respects labour rights, promotes fair wages and working conditions, and value addition along global supply chains [and] can be a catalyst for economic growth and development and contribute to reducing income inequality between countries.
- 641.** The Worker Vice-Chairperson then withdrew her group's outstanding proposed amendment for an additional paragraph 8 under Means of action to ensure decent work in supply chains: International labour standards. She suggested removing from the title of the document the words

“on options”, such that the title read: “Building blocks for a comprehensive strategy on achieving decent work in supply chains”.

642. The Working Group accordingly adopted the draft building blocks in their entirety.